

# Essay

## Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide

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## I. INTRODUCTION

Efforts to advance justice and improve the rule of law can be divided into two categories. One set of efforts—by far the better funded and more established of the two—focuses on state institutions, on improving the effectiveness and fairness of the courts, the legislature, the police, the health and education systems, etc. A second set of efforts, sometimes termed legal empowerment, focuses on directly assisting ordinary people, especially the poor, who face justice problems.<sup>1</sup> There are two primary reasons for complementing state-centered reforms with this second type of undertaking. First and most simply, institutional reform is slow and difficult, and there is a need to tend to those wounded by broken systems not yet fixed. Second—and this reason conceives of the poor as agents rather than as victims—lasting institutional change depends on a more empowered polity.

One conventional method of providing legal empowerment is legal services, including criminal defense, civil legal aid, and public interest litigation. Another method, which has received increased support in the last twenty years, is legal and human rights education.<sup>2</sup> Education is a critical first step in giving people power. But education alone is often inadequate to change a person's or a community's capacity to overcome injustice. Legal services, at their best, can achieve concrete victories for the powerless against the powerful: an arbitrarily detained juvenile is released, a group of workers receives its wrongfully unpaid wages, an unjust law is overturned. But legal services have serious limitations. Lawyers are costly and in short supply. Courts are often slow, ineffective, and corrupt. Perhaps most significantly, the solutions afforded by litigation and formal legal process are not always the kinds of solutions desired by the people involved, and they do not always contribute meaningfully to the agency of the people they serve.

This Essay argues that the institution of the paralegal offers a promising methodology of legal empowerment that fits between legal education and legal representation, one that maintains a focus on achieving concrete solutions to people's justice problems but which employs, in addition to litigation, the more flexible, creative tools of social movements.

1. STEPHEN GOLUB, BEYOND RULE OF LAW ORTHODOXY: THE LEGAL EMPOWERMENT ALTERNATIVE 25 (Carnegie Endowment for Int'l Peace Paper No. 41, 2003), available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=1367&prog=zgp&proj=zdr1>.

2. See, e.g., Philip C. Aka, *Education, Human Rights, and the Post-Cold War Era*, 15 N.Y.L. SCH. J. HUM. RTS. 421 (1999); Martha Minow, *Education for Co-Existence*, 44 ARIZ. L. REV. 1, 15 (2002).

Paralegal programs of different stripes exist in Africa, South and East Asia, Latin America, Europe, and North America. Considered against the mass and diversity of these existing efforts, paralegals have received scant attention from legal scholars and major institutions involved in human rights and development. The legal literature has not established a clear definition of the paralegal approach to justice services; I will draw on international experience to suggest a definition later in this Essay. In bare terms, paralegals who provide justice services are laypeople with basic training in law and formal government who assist poor and otherwise disempowered communities to remedy breaches of fundamental rights and freedoms.

The largest part of this Essay reflects in detail on the experience of an experimental community-based paralegal program in Sierra Leone called Timap for Justice, which I co-founded and co-direct.<sup>3</sup> One of the premises of the Essay and of the work it narrates is that the successful provision of justice services requires serious engagement with the social and legal particularities of a given context. Indeed, an earlier generation of efforts to provide justice services in the “third world” failed because of an unwillingness to heed socio-legal specificity.<sup>4</sup> For that reason, I believe that a close examination of the evolution and operation of a single program in one place is a useful way to begin to demonstrate the potential of the paralegal as an institution.

Parts II.A and II.B portray the justice context in Sierra Leone, first with a few stories of individual justice problems and then with a consideration of four features of Sierra Leone’s socio-legal landscape: the rule of “big persons,” the dualist legal structure, the persistence of violence, and the failed social infrastructure. Parts II.C through II.E examine the paralegal program through which my colleagues and I have begun to intervene in this distinctive context. I draw out, often through treatment of specific cases, five aspects of our work: 1) the creative and diverse set of methods our paralegals employ, in part to make up for absent and dysfunctional state institutions; 2) the strategic use of our paralegals’ association with the law, including legal knowledge and a connection to the capacity to litigate; 3) our alternative, community-and justice-centered conception of professional duty; 4) our attempt to move

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3. Timap for Justice began as a joint initiative of the Sierra Leonean National Forum for Human Rights and the Open Society Justice Initiative. The National Forum for Human Rights is a coalition of forty-one Sierra Leonean human rights organizations. The Open Society Justice Initiative, an operational program of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. The Justice Initiative combines litigation, legal advocacy, technical assistance, and the dissemination of knowledge to secure advances in the following priority areas: national criminal justice, international justice, freedom of information and expression, and equality and citizenship. A crosscutting program dedicated to fostering legal capacity underpins these efforts. Timap for Justice became an independent Sierra Leonean organization in 2005; Timap continues to receive technical and financial support from the Justice Initiative.

4. See, e.g., David M. Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 1974 WIS. L. REV. 1062. Trubek and Galanter’s famous article is said to have marked the death of the law and development movement of the late 1960s and early 1970s. Trubek and Galanter argued that U.S.-sponsored efforts to support, among other things, legal education and legal aid in the third world were misguided and likely to fail because of their reliance on an idealized, American-centered, “liberal legalist” model of law and society.

beyond the conventional notion of service toward addressing community-level problems and cultivating agency among the people with whom we work; and 5) our synthetic orientation toward Sierra Leone's dualist legal structure. Part II.F distills from this discussion the model by which our paralegals achieve improbable just results. Part II.G addresses the question of sustainability.

I believe that the story of our work in Sierra Leone will be valuable for other efforts to develop primary justice services, and especially so in countries with one or both of the following characteristics: devastated, "failed" state structures, as in Liberia, Sudan, Angola, the Democratic Republic of Congo, Iraq, and Afghanistan; and dualist or pluralist legal systems, as in much of Africa and South Asia.

Part III steps back from Sierra Leone to assess the range and character of paralegal programs existing in the world. Part III.A considers the various functions paralegals perform. Parts III.B and III.C identify the essence of the paralegal approach which unites these efforts, and elaborate the ways in which this approach complements conventional legal aid. Part III.D addresses three structural issues: the nature of paralegal training, the remuneration of paralegals, and the relationship between paralegal programs and governments. I advocate in part III.E for invigorated support for paralegal efforts from the human rights and development communities, both at the level of resources and at the level of ideas.

## II. COMMUNITY-BASED PARALEGALS IN SIERRA LEONE

### A. *Prelude: Three Justice Problems*

#### 1. *Paramount Chief's Interference in Customary Legal System*

Pa "Musa Lansana"<sup>5</sup> is a Temne-speaking farmer from Maqui Village, Kholifa Rowalla Chiefdom, in Northern Sierra Leone. At sixty-five, he walks with the deliberateness and dignity of someone who has lived longer than most men in his community ever will.<sup>6</sup> He is the patriarch of the Lansana family in Maqui.

Under customary land tenure, freehold ownership of land is not possible: land belongs to the community, including those who came before and those who have yet to come. Chiefs are the temporal custodians for this cross-temporal set of owners. But families do have a softer right to the land they occupy, one based on a historic allocation by a chief and a tradition of possession and cultivation thereafter.<sup>7</sup> The Lansanas have such an entitlement to a large and fertile plot of land in Maqui. For several generations the Lansanas have allowed other village farmers to plant and harvest palm trees on sections of their land at no cost. In 2004, because of a series of family

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5. Names have been changed throughout this Essay to protect client confidentiality.

6. As of 2002, the life expectancy at birth for Sierra Leonean men was about thirty-two. WORLD HEALTH ORGANIZATION, WORLD HEALTH REPORT 117 (2004), available at [http://www.who.int/whr/2004/en/report04\\_en.pdf](http://www.who.int/whr/2004/en/report04_en.pdf).

7. See M. Fofanah, *Customary Law in the Justice System in Sierra Leone*, in HANDBOOK FOR JUSTICES OF THE PEACE, CLERKS AND BAILIFFS 76, 76-77 (2003).

tragedies, the Lansanas' financial situation became dire, and the extended family faced considerable difficulty in feeding and schooling all its children.

Pa Lansana and his brothers decided to ask for a contribution of five gallons of palm oil from each of the families who harvested on Lansana family land. According to Pa Lansana, all but two families welcomed the chance to show their appreciation for land from which they had benefited for many years. Two families, however, headed by "Pa Jamil" and "Pa Kanu" respectively, refused. This began an expensive misadventure in the customary justice system.

As is the case in many African countries, law in Sierra Leone is bifurcated: a formal legal system based on that of the former colonial master (in this case, Great Britain) coexists with a customary system that is, in principle, based on traditional approaches to justice. The formal system in Sierra Leone is heavily concentrated in the capital while the customary system prevails in the countryside. Pa Lansana resorted to the *de facto* first tier of the customary justice system: the village chief's court. The vast majority of village and section chiefs adjudicate claims within their localities, issuing summonses, conducting hearings, making judgments, and collecting fines. These courts have existed for generations, though they are outlawed by the statute that lays out the architecture of Sierra Leone's modern dualist legal structure.<sup>8</sup>

Every step in a chief's adjudication costs money. Pa Lansana paid 2000 Leones (U.S.D. \$0.75)<sup>9</sup> to the village chief to issue a summons for Jamil and Kanu to report to the chief. When they refused, he paid the same chief another 5000 Leones (U.S.D. \$1.89) to inform "all those who are harvesting palm oil on my land without my consent" that he, Pa Lansana, would be hiring a sorcerer for the purpose of cursing the offenders.

The sorcerer, however, did not produce the short-term result Lansana was hoping for. At this point, Lansana decided to file his case in the "local court" in Magburaka. The local courts are the official judicial institutions of the customary legal system. "Chiefdoms" are the primary administrative units in the countryside; each chiefdom has between one and four local courts. Soon after filing in local court, Pa Lansana received a letter from Pa Roke, the acting paramount chief of Kholifa Rowalla Chiefdom.<sup>10</sup> It turns out that Pa Jamil and Pa Kanu were both related to Paramount Chief Pa Roke. The letter informed Lansana that Pa Roke was removing his case from local court and that he, Pa Roke, would personally settle the matter. Pa Lansana protested this removal to the local court chairman, but the chairman instructed Lansana to respect the paramount chief's wishes.

Pa Lansana, out of options and in over his head, reported to the paramount chief's quarters. He did not have a chance. During a series of hearings over the course of two weeks, the chief levied fine after fine against Lansana—for speaking out of turn, for stating that his right to his land was

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8. See generally Local Courts Act, 1963 (Sierra Leone).

9. Dollar estimates are based on a conversion rate of 2650 Leones (S.L.L.) to 1 U.S. Dollar (U.S.D.).

10. A paramount chief is the executive ruler of a chiefdom.

immune to interference by chiefs, for challenging the paramount chief's right to hear the case. Lansana was also charged 20,000 Leones (U.S.D. \$7.55) to pay transport costs for all the section chiefs to congregate in Magburaka (the chiefdom headquarters) to discuss his case. In all, Lansana paid 67,000 Leones (U.S.D. \$25.28) to the paramount chief in fines and transport costs and also apologized for the statements that were deemed offensive. These fines were all procedural, levied before the paramount chief came to any decision on the substantive question of whether Pa Kanu and Pa Jamil were obligated to comply with Pa Lansana's request for payment for the use of his farmland. To put the weight of the fines in perspective, the minimum wage for a day laborer in Sierra Leone is 21,000 Leones (U.S.D. \$7.92) per month.

What is Pa Lansana to do? His family was already facing a financial crisis; he is now nearly penniless. Pa Roke flagrantly violated the Local Courts Act's prohibition of chiefs' courts, but Pa Roke is the paramount chief. No one in the chiefdom, including the local court chairman, dares question his authority.

## 2. *Police Brutality Against a Civilian*

"Kadiatu T." is a woman in her thirties with simple clothes and a weathered face who lives in Clinetown, a neighborhood in the east of Freetown. She sells cigarettes and occasionally sex to make a living. In September 2004, a drunk off-duty police officer near the Clinetown police station asked Kadiatu T. to give him a cigarette on credit. Kadiatu T. gave him the cigarette. The officer then asked for a plastic bag. She said she did not have any. At this point, the officer started to beat her. She tried to walk away; he then beat and kicked her in the back, mouth, and belly until she was unconscious. Bystanders then had the heartlessness to steal her money and the stock of cigarettes she had been carrying atop her head.

Kadiatu T.'s boyfriend borrowed money from friends and relatives to pay for her medical treatment. The two of them approached the Complaints Discipline and Internal Investigations Department (CDIID) at police headquarters in Freetown and filed a complaint against the officer. They checked in at the department every week, but after a month, the department had taken no action. The CDIID representative only stated to Kadiatu T. and her boyfriend that the Department was "looking into the matter."<sup>11</sup>

Kadiatu T. was most interested in compensation for her medical care and the loss of her money and wares, but she was losing hope. The officer, meanwhile, continued to work in the Clinetown station, unchecked and unapologetic. Kadiatu T. was told that he laughed to people in the area: "What does she think she can do to me?" There is a phrase in Krio, the lingua franca of Sierra Leone, *na fo biya no mo*—"one should bear, nothing more." The people around Kadiatu T. were saying this to her at this point, in October

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11. In general, the cases discussed in this Essay are based on my direct interaction with clients, my conversations with paralegals, and our case files. In some instances, I reproduce dialogue. When I do not use quotation marks, I am paraphrasing (sometimes on the basis of a secondhand account) rather than quoting directly.

2004: You are powerless. You should bear the suffering life has dealt you and move on and forget and survive.

### 3. *An Abandoned Woman, Accused of Witchcraft*

“Macie B.” is a twenty-six year-old woman from Guala Village, Bumpeh-Gao Chiefdom, in the south of Sierra Leone. When I met her in April 2005, she was taciturn and in the seventh month of her fourth pregnancy. Her first and second children both died at around one year of age. When her third child also became sick during his second year, her husband and her husband’s family brought her to visit a diviner. The diviner declared that he believed Macie B. had something in her mind and that a confession from her could save the child’s life. During a ceremony with intense questioning, Macie B. confessed to being a witch. She explained that in a dream she had made an agreement with a coven of witches that each would offer a close relative to be sacrificed. She said she had given her first two children to this circle of witches in a dream before their deaths and that she had recently given her third child to the same witches in a dream as well.

On hearing this, Macie B.’s husband and her husband’s family wanted nothing to do with her. They refused to spend more money on her or the child’s healthcare, and they sent her to live with her parents. Within a few weeks, the third child also died. The husband and his family claimed that this third death proved the veracity of Macie B.’s confession. By this point, Macie B. was already pregnant for the fourth time. Her own family viewed her with suspicion and was reluctant to take her in. In April 2005, at seven months pregnant, she had not yet visited a clinic for an ante-natal appointment for lack of money, and she was not receiving enough to eat. She claimed that her confession was made under great pressure and was untrue. She said she wanted to take care of her health and the health of the baby she was carrying, but both her own family and her husband’s family had turned away from her.

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I offer these three disparate stories as examples of the kinds of justice problems that poor Sierra Leoneans face. Where should these people turn? What would it take to protect human rights in these situations? Before considering these questions, I want to sketch some features of the context out of which these stories arise.

#### B. *Context*

Sierra Leone comprises some 30,000 square miles and about five million people in the middle of the Mano River Basin, south and west of Guinea and north of Liberia. The country emerged in 2002 from an eleven-year civil war that involved the rebel group Revolutionary United Front (RUF), multiple factions and incarnations of the Sierra Leonean Army, several civilian defense forces and, near its end, West African and U.N. peacekeeping troops.

There is not space here for a systematic treatment of Sierra Leone's history, or even the history of the civil war. More modestly, I would like to highlight four dimensions of the historical and institutional context, all of which, I believe, must be reckoned with by any attempt to improve the justice situation of the Sierra Leonean poor.

### 1. *The Rule of Big Persons and the Patrimonial State*

Paul Richards describes the Sierra Leonean state as "patrimonial":

Patrimonialism involves redistributing national resources as marks of *personal* favour to followers who respond with loyalty to the leader rather than to the institution the leader represents. . . . In patrimonial systems of government "big persons" at the apex of political power compete to command some share of the "national cake" which they then redistribute through their own networks of followers.<sup>12</sup>

Among themselves, and even in the newspapers, Sierra Leoneans refer to President Ahmad Tejan Kabbah as *di pa*—"the father." They speak of the other ministers, and leaders in general, as *di big man dem*, "the big men." My barber Ahmed Koroma begins his laments about corruption this way: *di big man dem no lek we*. "The big men don't like us." State failure, in Ahmed's eyes, is personal.

It is not only the apex of the Sierra Leonean state that these big persons inhabit. Power is concentrated in the hands of big persons at every level, from Pa Kabbah down to the village chief, the school principal, the head of the village farmers' association. Richards writes that patrimonialism "is a systematic scaling up, at the national level, of local ideas about patron-client linkages, shaped (in Sierra Leone) in the days of direct extraction of forest resources, about the duty of the rich and successful to protect, support and promote their followers and friends."<sup>13</sup>

"Big person" is the literal translation of phrases in both Temne and Mende (the two most-widely spoken African languages in Sierra Leone): *an fem a bana* in Temne and *kpako* in Mende.<sup>14</sup> The relationship between big persons and the constituencies who depend on them has been shaped, like anything else, by history. Three hundred years of trans-Atlantic slave trade and almost one hundred years of what the British called "legitimate trade," while internal slavery was still practiced, increased the dependency of ordinary Sierra Leoneans on their chiefs, as people looked to their leaders to protect them from incessant wars and slave raids. The same wars and raids

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12. PAUL RICHARDS, *FIGHTING FOR THE RAINFOREST* 34-35 (1996).

13. *Id.*

14. A word on gender: in both Temne and Mende, the phrase used for "big person" is gender neutral. In the government and much of public life, most big persons are men. There is an occasional woman paramount chief in the south and the local elections in 2004 set quotas for women district council members, but the longest standing locus for "big women" is the leadership positions of the women's societies, such as Sande (Mende land) and Bondo (Temne land), which exist in virtually every community in Sierra Leone.



and the massive social upheaval of that period, meanwhile, rendered the protection chiefs could offer less dependable.<sup>15</sup>

During the colonial period, which began in 1896 when Britain extended its reign beyond the settlement of Freetown to what are now the provinces of Sierra Leone, local big men were used as a part of the colonial strategy of indirect rule. Indirect rule provided the primary answer to the "native question" of how a tiny foreign minority could rule over a large indigenous majority. The kernel of that strategy was to rule rural Africa by proxy. This meant, first, subjecting African chiefs to colonial authority, and, second, enhancing the power of those chiefs over their own people.<sup>16</sup>

While the colonialists transformed chiefs from sovereign but limited kings into colonial agents, they simultaneously "put chieftaincy out of the reach of traditional sanctions" such as the right of subjects to depose their chiefs.<sup>17</sup> Arthur Abraham, writing about Mende land, concludes, "[t]he traditional democratic basis of Mende chiefship was radically undermined."<sup>18</sup> As a result, chiefs not only carried out colonial demands but also practiced their own exploitation by way of excessive fines, forced labor, and arbitrary decisions.<sup>19</sup>

Mahmood Mamdani, contemplating the continent as a whole, claims that the legacy of indirect rule is a despotic African countryside, in which too much power is concentrated in the hands of chiefs. Independent African states, the inheritors of colonial authority, have failed to confront—indeed have often taken advantage of—this legacy of despotism.<sup>20</sup> Paramount chiefs in Sierra Leone were once told during colonialism that "his Majesty must be regarded . . . as the Paramount Chief over all Paramount Chiefs."<sup>21</sup> Post-colonial Sierra Leonean presidents have overtaken exactly this role: the father of all the fathers, each with a strong hold over his respective dependents.

Obvious tensions exist between a system of layered, personalized, authoritarian patrimonialism and both *the democratic principle* that ordinary people ought to have power over their own lives and *the legal principle* that social life ought to be governed by fair and consistent rules rather than personal fiat or ties of loyalty and dependency. But it would be neither useful nor easy to cast broad judgment on this element of Sierra Leone's political culture. I also do not suggest that patrimonialism is unique to Sierra Leone or to Africa; to the contrary, it would be difficult to identify a society in which

15. See generally La Ray Denzer, *Sierra Leone—Bai Bureh*, in WEST AFRICAN RESISTANCE: THE MILITARY RESPONSE TO COLONIAL OCCUPATION 233 (Michael Crowder ed., 1971).

16. See MAHMOOD MAMDANI, CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM 62-137 (1996).

17. ARTHUR ABRAHAM, MENDE GOVERNMENT AND POLITICS UNDER COLONIAL RULE: A HISTORICAL STUDY OF POLITICAL CHANGE IN SIERRA LEONE 1890-1937, at 303 (1978).

18. *Id.* at 305. Rosalind Shaw, writing about Temne land, argues similarly: "In relation to the [colonial] government itself [the chiefs'] powers had been curtailed . . . . But at the same time the checks and balances that had formerly curbed abuses of chiefly power over their subjects were gone." ROSALIND SHAW, MEMORIES OF THE SLAVE TRADE 236 (2002).

19. See, e.g., Vernon R. Dorjahn, *The Changing Political System of the Temne*, 30 AFR. J. INT'L INST. 110, 130-35 (1960).

20. See MAMDANI, *supra* note 16, at 62-108.

21. MILAN KALOUS, CANNIBALS AND TONGO PLAYERS OF SIERRA LEONE 280 (1974).

patrimonialism in some form is not present. I only posit that any attempt to succor justice in Sierra Leone must ask itself how it will grapple with the rule of big persons.

## 2. *The Dualist Legal Structure*

Law in Sierra Leone, like that in many African countries, is bifurcated: a formal legal system based on that of the former colonial master (in this case England) coexists with a "customary" legal regime that is derived from traditional approaches to justice.

The 1896 ordinance that first made Sierra Leone a British protectorate established courts of the native chiefs.<sup>22</sup> The same institutions are legally recognized today, though renamed "local courts," as arbiters of customary law. Reforms in the late colonial period replaced paramount chiefs with court chairmen as the heads of these courts,<sup>23</sup> but those chairmen are still appointed by paramount chiefs for approval by the local government ministry. In practice, customary law is also administered by lesser village and section chiefs, although these are not recognized by statute. Customary law varies by tribe and is not codified.

The formal legal system, meanwhile, is concentrated in Freetown, the nation's capital. Of a total of ten magistrates at this writing, five sit in Freetown while the other five rotate among twelve provincial magistrate courts. Of twelve high court judges, ten presently sit in Freetown while one sits in the southern provincial capital, Bo, and another is assigned to rotate among the provinces. There are only about one hundred practicing lawyers in the country, and more than ninety of those lawyers are based in Freetown.

Most chiefdoms have branch offices of the Sierra Leone national police in addition to "chiefdom police" officers who serve the customary institutions. Law requires that crimes punishable by more than six months' imprisonment and civil matters involving large sums of money<sup>24</sup> be dealt with by the formal courts, though such jurisdictional boundaries are not always respected.

Different countries have approached legal dualism in different ways since independence. In Ghana, Kwame Nkrumah abolished chiefs' courts because he saw traditional rulers as a challenge to his authority. Customary law was integrated into a unitary legal code.<sup>25</sup> In South Africa, where the rulers of the homelands were closely associated with the apartheid regime, the relevance of customary law shrunk drastically after 1994. In Sierra Leone, however, the customary legal system continues to have far more practical

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22. ABRAHAM, *supra* note 17, at 126.

23. RICHARDS, *supra* note 12, at 46.

24. The Local Courts Act is outdated; it states the limit on the value of local court civil suits in British Pounds. The present limit on civil cases in magistrate court is 1,000,000 Leones (U.S.D. \$377.36), so local courts certainly should not hear cases worth that much. A committee has been convened to draft a "Customary Law Act" which will replace the Local Courts Act and, among other things, specify jurisdictional limitations in the national currency. Interview with Mofred Sesay, Customary Law Officer, in Bo, Sierra Leone (March 14, 2006).

25. See MAMDANI, *supra* note 16, at 131 (arguing that Ghana's integration was formal rather than substantive).

relevance for the vast majority of Sierra Leoneans than the formal legal system.

Substantively, customary law sometimes conflicts with what some consider to be human rights. In certain tribes, a girl can be betrothed without her consent before she reaches puberty.<sup>26</sup> Women are also generally disallowed from inheriting family property.<sup>27</sup> Customary law is supposed to comply with the national constitution and it should not, according to the 1963 Local Courts Act, contradict "enactments of parliament" or "principles of natural justice and equity."<sup>28</sup> But these nominal limitations are seldom if ever enforced.

Moreover, customary law is often applied unfairly. Favoritism and excessive fines are common. In Bumpeh-Gao Chiefdom in the Southern Province, I watched two 10,000 Leone (U.S.D. \$3.77) fines levied against the same witness—someone who was in principle assisting the court in its work—within the course of half an hour. The reason was that the witness spoke a one-word answer to a question asked of him before the court clerk had finished recording the question in his languid handwriting.

Among the causes of both substantive and procedural unfairness is a lack of independent review. Within the chiefdom, few but the paramount chief and the elders he favors have any power over the way the local courts function. This may be symptomatic of the concentration of power discussed above. There is a theoretical right to appeal from local courts into the formal legal system, but in practice such appeals are quite rare. There are also three "customary law officers" in the country, lawyers working in the Attorney General's office, who have the power to supervise local court chairmen and review local court decisions. This form of review may not qualify as independent because the law officers are members of the executive rather than judicial branch. Even assuming adequate independence, the same men double as the only public prosecutors working in the formal courts in the provinces—and their time is stretched thin.

The notion of "legal services" is an offspring of the British common law tradition.<sup>29</sup> Providing an analogous service in the circumstance of legal dualism in a place like Sierra Leone requires a re-imagination of what legal services might mean.

### 3. *The Persistence of Violence*

Both the three-hundred-year trans-Atlantic slave trade and the "legitimate trade" in the nineteenth century fueled and were fueled by

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26. H.M. JOCO SMART, *SIERRA LEONE CUSTOMARY FAMILY LAW* 33 (1983). Customary law is always evolving and it is unfortunate that this is the most recent research available. But we know from field experience that both of the practices mentioned here are still common.

27. *Id.* at 196.

28. See Local Courts Act, 1963 (Sierra Leone) § 2.

29. See Joan Mahoney, *Legal Services: Green Forms and Legal Aid Offices: A History of Publicly Funded Legal Services in Britain and the United States*, 17 ST. LOUIS U. PUB. L. REV. 223, 226 (1998) (discussing the origins of legal services).

widespread wars and abductions in Sierra Leone. Rosalind Shaw reminds us that it was not just those who embarked on the middle passage who suffered:

The history of the Atlantic trade, then, encompasses much more than the transatlantic movement of people and goods in slave ships . . . . It also includes the vast hinterland of violence and terror among those who remained on the African side of the Atlantic and were never taken as slaves, but who lived for centuries with both the anticipation and the consequences of the warfare, raiding, and other means of enslavement that the Atlantic trade engendered and multiplied.<sup>30</sup>

Only about a hundred years have passed since those four hundred years of terror. Mariane Ferme argues that contemporary Mende social interactions, even in peacetime—her fieldwork was conducted in the 1980s—deliberately invoke various forms of secrecy and “a hermeneutic of ambiguity,” in part out of the historical need to survive the continuous possibility of violence.<sup>31</sup>

That possibility erupted into actual, sustained brutality during the eleven-year civil war. The Sierra Leone Truth and Reconciliation Commission (TRC), collecting voluntary statements with limited resources and time, recorded some 40,000 human rights violations against civilians, including 4,500 killings and 6,000 abductions.<sup>32</sup> Analysts of the war agree that violence committed against civilians far exceeded the losses suffered by any of the belligerent parties. Human Rights Watch and others have shown that sexual violence of extraordinary brutality was committed systematically by various parties to the conflict, especially the RUF, as a weapon of terror.<sup>33</sup> The majority of combatants were Sierra Leoneans,<sup>34</sup> tens of thousands of whom still live in the country.<sup>35</sup>

The United Nations’ demobilization and disarmament program endeavored to remove from Sierra Leone some of the physical machinery of violence from Sierra Leone. That process may have succeeded, but it was inevitably incomplete.<sup>36</sup> The *culture* of violence may prove even more persistent. After eleven years of fighting, Ferme’s observation is, if anything, more accurate: violence lies just beneath the surface of everyday life. Too

30. SHAW, *supra* note 18, at 32.

31. MARIANE FERME, *THE UNDERNEATH OF THINGS: VIOLENCE, HISTORY, AND THE EVERYDAY IN SIERRA LEONE* 20 (2001).

32. 2 SIERRA LEONE TRUTH AND RECONCILIATION COMMISSION, *WITNESS TO TRUTH* ¶ 87 (2004). The TRC numbers are based on statements taken and do not represent projections for the overall population. A study sponsored by the American Bar Association will make estimates of total violations that took place; its results are not available at this writing.

33. HUMAN RIGHTS WATCH, *WE’LL KILL YOU IF YOU CRY: SEXUAL VIOLENCE IN THE SIERRA LEONE CONFLICT* 25-26 (2003).

34. SIERRA LEONE TRUTH AND RECONCILIATION COMMISSION, *supra* note 32, ¶ 75.

35. Some 72,000 ex-combatants completed the UN’s disarmament program. INTERNATIONAL CRISIS GROUP, *SIERRA LEONE AFTER ELECTIONS: POLITICS AS USUAL?* 13 (2002).

36. See Disarmament and Rehabilitation Completed After Five Years, IRINnews.org (U.N. Office for the Coordination of Humanitarian Affairs) (Feb. 4, 2004), available at <http://www.irinnews.org/print.asp?reportID=39305> (“[A] World Bank representative . . . pointed out that [Sierra Leone] ‘is considered as the best practice example throughout the world of a successful disarmament demobilization reintegration programme.’”). But see, e.g., Olu Gordon, *Choosing Development Over Guns in Sierra Leone*, CHOICES, Dec. 2004 (quoting a United Nations Development Program staff member as saying, “[a]lthough the demobilization and disarmament process . . . took over 30,000 weapons away from ex-combatants . . . there were many small arms still floating around in the various communities.”).

frequently it surfaces, in a dispute between husband and wife, in a fight between *poda poda*<sup>37</sup> drivers, in a policeman's confrontation with a street vendor like Kadiatu T. Addressing the consequences and, ideally, the causes of this violence is a critical challenge for those who would take on the justice problems of the Sierra Leonean poor.

#### 4. *A Failed Social Infrastructure*

Of those Sierra Leoneans who went to war, many did so out of their disaffection with an ineffective, unequal social infrastructure.<sup>38</sup> Eleven years of civil war made a bad thing much worse. In name, Sierra Leone possesses the complete anatomy of a modern state—ministries of health, education, and welfare, a transit authority, a police force—but each organ is profoundly dysfunctional. The United Nations Development Program ranks countries according to an aggregation of data on health, education, and standards of living; as of 2004, Sierra Leone was last on the list of 177 countries.<sup>39</sup>

Sierra Leone's failed social infrastructure is in a reciprocally causal relationship with its poor economy. Terrible roads render markets difficult to access. Terrible health and education systems create a shortage of healthy, educated economic actors. A lack of economic development, in turn, leaves the government with minimal resources and leaves the majority of people too poor to fulfill their basic needs. Despite the country's considerable mineral wealth, Sierra Leone's per capita gross national income is among the bottom 10 of 208 countries ranked by the World Bank, and Sierra Leone is classified as "severely indebted."<sup>40</sup> Seventy per cent of Sierra Leoneans live below the poverty line determined by the Sierra Leone government.<sup>41</sup>

Corruption is an operating principle for the patrimonial state, and massive corruption in Sierra Leone kindles both economic and social-structural failure. The government itself, hand-held by some of its donors, conducted a study in 2004 to track the flow of state resources. The study found that of 1.7 billion Leones' (U.S.D. \$641,500) worth of essential medicines supposedly transferred from the central government to district hospitals, only ninety-six million Leones' (U.S.D. \$36,200) worth of drugs were actually reported received at the district level. Some 94.3% of the drugs disappeared without explanation! Another one billion Leones of essential medicines was nominally transferred to district medical officers for the purpose of distribution to peripheral health units in the rural areas. In this case 90.6% of the drugs were missing at the district level. Of the remaining 9.4%,

37. "Poda poda" is the Sierra Leonean name for the mini-vans used for public transport which are found all over Africa.

38. See, e.g., RICHARDS, *supra* note 12, at 60.

39. UNITED NATIONS DEV. PROGRAM, HUMAN DEVELOPMENT REPORT 179 (2004).

40. WORLD BANK, WORLD DEVELOPMENT INDICATORS DATABASE (2005). I am referring to the "purchasing power parity" calculation of Gross National Income (GNI) per capita, according to which Sierra Leone was 201st out of 208, though there are several low-income countries that are not ranked. If GNI per capita is calculated by the "Atlas method," Sierra Leone is ranked 198 out of 208.

41. STATISTICS SIERRA LEONE, ANNUAL STATISTICAL DIGEST, SIERRA LEONE INTEGRATED HOUSEHOLD SURVEY (2003/2004).

another 45% went missing in the transfer from district medical officers to the peripheral health units. Not accounting for corruption and theft at the level of the peripheral health units themselves, rural people received at most 5% of what was originally intended for them.<sup>42</sup>

For most Sierra Leoneans, these severe conditions make injustice a part of every lived day.

### C. *Intervention*

This picture demands several kinds of change. One need is for serious reforms to the state institutions: to rein in state corruption, democratize political power, construct a more effective social infrastructure, and engage some of the contradictions in the dualist legal regime. The bulk of post-war reconstruction efforts have fallen into this broad category, with assistance from the United Nations Mission in Sierra Leone, the United Nations Development Program, and the British, American, European, and other governments.

The premise of our work in Sierra Leone is that there is also an urgent need for justice efforts on the other side of the lines of power: efforts which work directly with poor Sierra Leoneans. If successful at all, macrocosmic progress is slow. People like Pa Lansana, Kadiatu T., and Macie B. suffer in the meanwhile, and one simple reason to undertake justice work with common Sierra Leoneans is to assist people like them; to tend to those wounded by a broken system not yet fixed. A second reason—one that conceives of people like Pa Lansana as agents rather than victims—is that lasting institutional change depends on a more empowered polity. Justice services for the poor can hope to contribute to the process of reform from below.<sup>43</sup>

If justice services for the poor are a worthy priority, what should they look like in this distinctive context? Criminal legal aid would involve too narrow a swath of the justice problems people encounter. Some human rights organizations in the country undertake a mixture of education and advocacy activities, but they tend to lack an understanding of law and government, and, relatedly, they tend to lack a rigorous method with which to approach ordinary people's problems. The broader conception of "community legal services" is more attractive: applying the rigor of legal practice to the wide range of justice problems communities face.

Lawyers, however, are hard to come by. There are only about one hundred practicing lawyers in the country, and more than ninety of those are

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42. SIERRA LEONE MINISTRY OF FINANCE, REPORT OF THE PUBLIC EXPENDITURE TRACKING SURVEY (PETS) FOR FINANCIAL YEAR 2002 SELECTED EXPENDITURES 31-33, ¶¶ 63-66 (2004). This data was for the year 2002. District medical officers reported transferring more drugs than the amount which they reported receiving from the central government; this was due to donations at the district-level by NGOs and charities. My estimate that peripheral health centers received five percent of the drugs originally intended for them assumes that the rate of discrepancy applied equally to both sources.

43. This sort of work fits into what Stephen Golub calls "the legal empowerment paradigm." GOLUB, *supra* note 1, at 25 ("Legal empowerment is the use of legal services and related development activities to increase disadvantaged populations' control over their lives."). Golub argues that efforts to enhance the rule of law should balance a focus on state institutions with attention to legal empowerment. *Id.* at 3, 25.

located in the capital Freetown. The Lawyers' Center for Legal Assistance, based in Freetown, provides much-needed legal assistance to indigent clients, but the Center is unable to meet demand—suggesting the need for more legal aid—and its activities are largely limited to Freetown and provincial headquarter towns. Moreover, under Sierra Leone's dualist legal structure, lawyers are barred from practicing in the customary courts; yet these are the institutions of most practical relevance to the majority of Sierra Leoneans. For these reasons, and based on our experiences in the field, the Sierra Leonean National Forum for Human Rights (NFHR) and the Open Society Justice Initiative [hereinafter Justice Initiative] collaborated to initiate a program to deliver basic justice services at the chiefdom level through a frontline of community-based paralegals. This program is now called Timap for Justice.<sup>44</sup>

The program drew inspiration from South Africa. Community-based paralegals first emerged there during the anti-apartheid struggle, and have since grown into a nationwide movement that is widely respected as a frontline provider of legal services to poor South Africans. Paralegals in South Africa are now working toward statutory recognition of their profession and national accreditation of their training process.

Sierra Leone, as we have seen, is quite a different context, and Timap for Justice takes an experimental approach to its work. The program began on a small scale in order to focus on the development and refinement of its methods. NFHR and the Justice Initiative decided to focus their efforts in the countryside, where the social infrastructure is thinnest and the need for services is greatest. After discussions with chiefdom authorities and community members, five chiefdoms were selected: three in Bo District in the South and two in Tonkolili District in the North.<sup>45</sup> Simeon Koroma, a Sierra Leonean lawyer, and I, an American-trained lawyer, served as program directors, engaging first in informal community needs assessments in each chiefdom. These assessments aimed to identify justice problems and to begin to flesh out exactly what role paralegals could play. Findings from the assessments helped us to shape the first paralegal training program.

The needs assessments revealed justice problems that arise between ordinary chiefdom residents, such as domestic violence and child abandonment, as well as justice problems that arise between the people and their authorities, such as favoritism by customary officials and corruption in government services.

The paralegals were recruited and hired from the chiefdoms where they now work. Initially there were thirteen paralegals in all: two in each of the

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44. This change in name came about in 2005, when the paralegal program jointly initiated by NFHR and the Justice Initiative became an independent Sierra Leonean organization. "Timap" is Krio for "stand up" or, in some cases, "team up."

45. Sierra Leone comprises three provinces, twelve districts, and 149 chiefdoms. According to the provisional results of the 2004 census, 350,281 people (7% of Sierra Leone's population) live in the five chiefdoms in which we have paralegal offices. 772,873 people (15.5% of Sierra Leone's population) live in the urban district of the Western Area, in which our head office and Freetown paralegals are located. See STATISTICS SIERRA LEONE, PROVISIONAL RESULTS: 2004 POPULATION AND HOUSING CENSUS (2005), available at [http://www.daco-sl.org/encyclopedia/5\\_gov/5\\_4/Statistics%20Sierra%20Leone/pro\\_result\\_census.pdf](http://www.daco-sl.org/encyclopedia/5_gov/5_4/Statistics%20Sierra%20Leone/pro_result_census.pdf).

five chiefdoms; one more in Bumpeh-Gao Chiefdom, which is exceptionally large; and two who work in the headquarter office in Freetown.<sup>46</sup> They all have at least a secondary school education, and a few have university degrees. At the outset they participated in an intensive two-week training in law, the workings of government, and paralegal skills. They also learn on the job; directors continue to train and supervise the paralegals as the work goes on.

The substantive directions of the program are determined by the specific problems that clients and community members bring to our offices. Common issues we address include domestic violence, child abandonment, corruption, police abuse, economic exploitation, abuse of traditional authority, employment rights, right to education, and right to health.

The methods by which the paralegals work are diverse. For individual justice-related problems (e.g., a woman is beaten by her husband or a juvenile is wrongfully detained), the paralegals provide information on rights and procedures, mediate conflicts, and assist clients in dealing with government and chiefdom authorities. For community-level problems (e.g., domestic violence is prevalent in the community or a police department has adopted a policy of detaining juveniles with adults), they engage in community education and dialogue, advocate for change with both traditional and formal authorities, and organize community members to undertake collective action. The paralegals and the program as a whole straddle the dualist legal system, drawing on and engaging both customary and formal institutions depending on the needs of a given case. In a small number of cases, chosen either because the injustice is particularly severe or because of the possibility of legal impact, the coordinating lawyers provide direct legal representation or high-level advocacy.

In an effort to ensure the program's accountability to its host communities, we have established "community oversight boards" (COBs) in every chiefdom where we work. The boards are made up of community leaders and are charged with monitoring the paralegals' work and ensuring that the program is well-serving the needs of the chiefdom. Candidates for the COBs are appointed by community members and paramount chiefs and approved by the program directors. Every COB includes at least one woman and one youth representative. The board members meet directly with the program's directors to provide feedback on paralegal performance.

The paralegals' caseloads have risen as the character and quality of our work has become known within our host communities. By June 2005, each of our eight offices (Bumpeh and Tikonko chiefdoms have two offices each) was handling an average of twenty new cases (including both individual and community-level problems) per month.<sup>47</sup>

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46. Though the bulk of our work is in Sierra Leone's provinces, we have a headquarter office in Freetown. This is necessitated by the legal nature of our work and the fact that the Sierra Leonean legal system is heavily concentrated in the capital. There is no law library outside of Freetown, for example, and all but two of the high court judges sit in Freetown.

47. Timap for Justice Case Records Database (on file with Timap for Justice).



Those are the broad outlines of our program; I will now try to convey something of the texture of our work by returning to the three individuals with whom I began. All three were clients of ours.

D. *Three Justice Problems Revisited*

1. *Pa Lansana*

After spending his last Leone paying fines to the acting paramount chief, Pa Lansana approached our paralegal office. Paralegal Michael Luseni introduced himself and the program, and explained briefly his role as a paralegal. He listened to Pa Lansana's story and recorded it in the form of a statement which he read back to Pa Lansana before the Pa pressed an inked thumb on the paper. Michael consulted his notes and offered his client some legal facts. Michael spoke in Krio. First, Pa Roke's actions violated the Local Courts Act, which prohibits chiefs from constituting courts.<sup>48</sup> Second, the law creates avenues for redress in the event of unfairness in the customary courts. One possibility would be to appeal the case to the district appeal court; another possibility would be to approach the customary law officer.

Just learning these facts changed Pa Lansana's understanding of his predicament. He hadn't heard of a customary law officer or a right to appeal; he hadn't known there was law on his side. Pa Lansana asked Michael what action he would advise. Michael gave Pa Lansana a day and time to return to the office. Barring emergencies, we ask our paralegals to try to independently investigate the facts that clients report before they take action. Michael met with the local court chairman, who confirmed that the case had been removed improperly from his court. The chairman was indignant at the violation of process but fearful of challenging the chief.

When Pa Lansana returned, Michael discussed with him his options. He could file an appeal into the formal court system, but that might be difficult without a lawyer. Michael himself could not file such an appeal. Second, Pa Lansana could try to approach the customary law officer. At the time, only one customary law officer (a lawyer working in the Attorney General's office) covered all the customary courts in the country *and* acted as the only public prosecutor in the formal courts in the provinces.<sup>49</sup> Michael knew it would not be easy to get the officer's attention. But the officer has a "local court supervisor" based in the district, a soporific, elderly gentleman who has no power of review himself but who has occasional access to his boss. Michael offered to draft a letter to the customary law officer, meet with the local court supervisor together with Pa Lansana, and advocate with the local court supervisor to call the customary law officer's attention to the matter. Pa Lansana was enthusiastic. He felt he was starting to have a fighting chance.

I edited Michael's letter before he met the local court supervisor. I was somewhat skeptical that the customary law officer would pay attention, and

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48. See Local Courts Act, 1963 (Sierra Leone) § 40.

49. The government assigned two more customary law officers in 2005.

offered to take up the issue with him directly if Michael's efforts failed.<sup>50</sup> But Michael's efforts succeeded. He managed to awaken the local court supervisor to the implications of this breach of process; the supervisor in turn raised the issue with the customary law officer when the officer visited the district in November 2004. Both officer and supervisor visited the chief. The chief, faced with a government lawyer from Freetown, a bigger—that is, more powerful—person than himself, agreed to send the case back to the local court and even refunded some of the money Pa Lansana had paid in fines. For a chief to change his stance or to return fines was unheard of. Pa Lansana was moved.

The local court chairman also visited our office to thank Michael for protecting the integrity of the institution he ran. Michael, meanwhile, paid a diplomatic visit to Pa Roke to ensure that their relations were not severely damaged. We work hard to cultivate positive relationships with paramount chiefs, and challenging one is a delicate business. An angry paramount chief could shut one of our offices down in one day. Pa Roke knew that Michael had advised Pa Lansana, but Michael's exact role was never made clear. Michael has profound resources of humility, and on this occasion he dug deep. Pa Roke accepted Michael's implicit request for no-hard-feelings. Michael ended his involvement there, but later recorded in his file that Pa Lansana went on to win in the underlying matter before the local court.

One felicitous corollary effect of this case was to remind a bureaucrat of the reason he used to care about his work. The local court supervisor in Magburaka once served as a local court clerk himself and possesses a talent for the nuances of the customary legal system. He is also an underpaid civil servant with little power who has watched the country languish under administration after feckless administration. His present listlessness is, perhaps, understandable. His efforts in this case, however, reminded him that he can play an important role, and seem to have rejuvenated some of his enthusiasm. Pa Lansana, for his part, now knows that the local court supervisor and the customary law officer exist, and his friends will no doubt find out as well when they hear Pa Lansana tell his story. With a measure of legal knowledge, a well-drafted letter, and some tactful advocacy, Michael scored a small victory against the supremacy of paramount chiefs and a small enlivening of the relationship between Sierra Leoneans and their government.

## 2. *Kadiatu T.*

Kadiatu T.'s boyfriend was already a client of ours. After a month of opacity and inaction from the police internal disciplinary department, the two of them came to our office in Freetown. Our paralegal Jow Williams listened to Kadiatu T.'s story, recorded her statement, and assured her that if indeed she was beaten in the way she described, then the officer had committed a serious violation of the law and a serious breach of appropriate police

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50. In addition to launching the independent paralegal program, the Justice Initiative and NFHR agreed in 2004 to work with the government of Sierra Leone to provide the first training for local officials since 1982. For this reason, I am acquainted with the customary law officer.

conduct. He gave her a time to return to the office. Jow began investigating to develop an objective understanding of the facts. His interviews at the station and in the neighborhood generally confirmed Kadiatu T.'s story, including the officer's bravado after the incident.

Jow wrote a letter on our letterhead to invite the police officer to our office. The letter recounted the allegations and stated that, if true, they were quite serious. The letter asked the officer to visit our office so that we could hear his side of the story. As I will discuss in more detail below, a letter from the "human rights" office holds power for many Sierra Leoneans. The officer reported to our office with a humble disposition and, after some discussion, conceded his wrongdoing. Jow informed him that the offense was severe, that we would monitor the proceedings in the police disciplinary board, and that, depending on the outcome, we would consider the possibility of private prosecution and a civil suit for damages. The officer was afraid and ostensibly contrite. Was there anything he could do to settle the matter? Jow said he would discuss things with Kadiatu T. and get back to the officer.

But events moved forward before Jow could speak with Kadiatu T. After leaving our office, the officer approached senior officers in his area to "beg for him" to Kadiatu T. To "beg" in Sierra Leonean culture is to acknowledge wrongdoing and ask for forgiveness. In instances of a serious rift it is common to beg through mutually respected intermediaries. At a meeting in the police station during the day, Kadiatu T. accepted the senior officers' pleading on the officer's behalf, the officer's own apology, and a promise that the officer would pay her 138,000 Leones (U.S.D. \$52), which is no small sum in Sierra Leone. She also agreed to drop her complaint with the internal disciplinary board of the police. We did not find out about the deal until Kadiatu T. came to our office the following week to report that the officer had paid only part of the money he had promised. Jow spoke to the senior officers who had acted as intermediaries. They, in turn, spoke to the officer himself and the balance of the money was eventually paid.

Was justice done? The client received what she wanted most: compensation for her losses. But one might argue that a police officer had managed to buy impunity for an illegal and vicious act. On the other hand, our paralegals and Kadiatu T. insist that it is a rare and remarkable thing for several police officers to publicly "beg" forgiveness from a poor, female cigarette-seller. It was fear of the human rights office and not the police discipline board—which had taken no action on the complaint—that led to this apology and settlement. Jow, who used to live in Clinetown himself, says that people in the neighborhood paid great attention, and that it is a poor and small neighborhood where word travels fast. Jow met with the officer once more to warn him to never commit such an act again.

At some point we will probably take formal legal action on a case of police brutality. But in this instance the paralegal was able to achieve compensation for our client and a local form of justice in a short period of time at little to no cost.

### 3. *Macie B.*

Macie B.'s family members brought her to our office in Bumpah town. They spoke in high-pitched tones. What do you want us to do with this child? She is a confessed witch. She gave three of her children to witches to be eaten! Her husband's family has returned her to us and left the village. We do not have money to support her; we fear her ourselves. What do you human rights people have to say about this?

Our paralegals are trained to approach with calm the clients who arrive distressed. Welcome to our office, please have a seat, drink this water, tell me the problem. This time, the paralegals, Joseph Sawyer and Elizabeth Lebbie, were at a loss. Under customary law, Macie B.'s confession was enough to justify the husband's family "returning" her to her family, and also sufficient to justify her own family if they refused to take her in. Under formal law her family had no obligation to care for her because she was no longer a child. All of our paralegals and the Sierra Leonean director believe deeply in witchcraft. The Bumpah paralegals set aside those beliefs for the moment and focused on the principle of their occupation—the dignity of every individual. Was there any way to keep this pregnant woman from being abandoned and outcast?

The paralegals appealed to love rather than law. They spoke in Mende. We are happy that you came to talk to us. We have listened to everything you have said, and we respect the seriousness of the situation. We want to remind you, though, that this is your daughter. It was you that brought her up into this world. If not to you she has nowhere to turn. They also tried a bit of reason: her husband's family stopped pursuing medical help once she confessed; the deaths may well have been due to neglect rather than witchcraft.

This sort of persuasion, gently and respectfully rendered, convinced the family to continue to house Macie B. for the time being, but food remained scarce in their household. The paralegals discussed the case with Simeon and me. We, too, were at a loss. We gave a small amount of money from our pockets so Macie B. could visit the clinic for ante-natal care and to purchase some additional food for herself. (We hope to eventually develop a small emergency fund in each office for such purposes.) We asked the paralegals to stay in contact with Macie B. and to continue to encourage the family. I suggested that once the baby was born, we could approach the husband's family for maintenance payments, an obligation under formal law. But Simeon and the paralegals argued that the family's strong position under customary law would make it nearly impossible to collect.<sup>51</sup>

One of our community oversight board members in Bumpah Chiefdom is a part-time diviner. She offered to prepare a meal and ceremony for Macie B. after the birth of the child that would exorcise the witch. She assured me that the meal of chicken and rice wouldn't harm Macie B. in any way, except

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51. According to an outdated statute under formal law, the maximum maintenance payment which the courts can enforce by law is 100 Leones per month (U.S.D. \$0.04). The Bastardy Laws Increase of Payment Act #2 (1988) (Sierra Leone). We manage to negotiate many maintenance agreements at much higher rates through a process I will describe *infra*. In this case our staff members doubted that our usual methodology would be effective.

that it would cause some temporary diarrhea. I suspended my own skepticism for the hope that, if Macie B. could be perceived to have been de-witched, her own family and perhaps even her husband's family would accept her again, and she could rejoin the fabric of her society. Here the problem did involve human rights—Macie B.'s right to basic health and food—but the partial solution we could offer did not involve law at all.<sup>52</sup>

Having laid out the structure of our program and narrated a few cases, I would like to examine several conceptual and practical issues which this work raises.

#### E. *Characteristics and Challenges of Timap for Justice's Methodology*

##### 1. *Creative Services in an Institutional Vacuum*

###### a. *Wide Range of Methods*

We work in a barren institutional landscape. State institutions are poorly functioning, understaffed, and widely corrupt. As a result we take on a much wider range of functions than a typical legal services program would.<sup>53</sup> For example, villagers in Tikonko Chiefdom approached our paralegals in June

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52. Postscript to Macie B.'s story: In June 2005, our paralegals helped Macie B. to bring a case against her husband's family in local court asking that the family pay for some of the health care costs associated with Macie B.'s pregnancy. The court chairman sided with Macie B., and in doing so departed from the traditional rule that excuses a family from its obligation to a family member who a diviner has declared to be a witch. Macie B.'s baby was born in July 2005 and named Betty after one of our paralegals in Bumpeh-Gao. During Betty's first month, while Macie B. continued to live with suspicious and extremely poor relatives, both mother and daughter were sickly, sad, and relatively silent. The exorcism took place in August, and—along with continuous advocacy, encouragement, and material support from our paralegals and Simeon and me—it seemed to have worked. Our COB member prepared the special chicken and rice and Macie B. ate the meal without realizing its purpose (it was apparently important that the subject not realize the ritual intention). Our COB member reported success. Macie B. and her baby were re-accepted by the family of Macie B.'s husband and Macie B. began to live (and, importantly, eat) there again harmoniously. The nurse at the Bumpe health clinic agreed to exempt Macie B. and Betty from Sierra Leone's "cost recovery" system and provided free treatment for their minor ailments. By October the transformation was remarkable: mother and daughter were both healthy and full of smiles and laughter. In January 2006, however, Betty died, to the great shock of community members, the Bumpeh-Gao paralegals, and all of us working with Timap for Justice. Betty was not known to be sick at the time. Macie B. said that some *pap* (a soft rice meal fed to babies) accidentally went up the baby's nose, and Macie B. brought the baby to the clinic in Bumpeh. The nurse said that Betty was dead before she arrived. There was no conclusive determination of cause of death, but the nurse believes the baby may have choked. 283 out of every 1000 children in Sierra Leone die before the age of five, the highest child mortality rate in the world. See UNICEF, *THE STATE OF THE WORLD'S CHILDREN* (2006) 102-105, available at [http://www.unicef.org/sowc06/pdfs/sowc06\\_table1.pdf](http://www.unicef.org/sowc06/pdfs/sowc06_table1.pdf). The community as a whole has *not* accused Macie B. of witchcraft. Her mother-in-law insists, however, that Macie B. will not set foot in the family house again. Macie B. plans to leave the village to stay with her mother in Freetown for a time. We hope to help her access vocational training of some kind. I considered removing this story when Betty died, but I decided to leave it in. It is a reminder that our work is like bailing water from the ocean with a small cup: if we look at the few buckets we fill, we feel hopeful, but if we face forward the ocean of suffering is unspeakably vast.

53. Both in its methodological flexibility and in its treatment of clients as active social agents (see *infra* Part II.E.4.), our approach resonates with what some lawyers working in poor communities in the United States call a creative community problem solving approach to legal services. See, e.g., Gerald P. Lopez, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59, 67-74 (2004); Andrea M. Seielstad, *Community Building as a Means of Teaching Creative, Cooperative, and Complex Problem Solving in Clinical Legal Education*, 8 CLINICAL L. REV. 445, 448-52 (2002).

2004 to complain that they were cut off from basic services because of the condition of the feeder road that connected their village to the main road. In response the Tikonko paralegals organized village residents for a day of voluntary, collective road maintenance. Other cases which begin as child neglect complaints result, through mediation, in a reunion between husband and wife. Following up with the clients, the paralegals end up providing their own form of family counseling.

b. *Mediation*

Mediation—wherein we seek to facilitate the voluntary settlement of disputes—is one of our most powerful and commonly used tools. If both parties to a conflict are interested in settlement, the paralegals conduct a structured, six-step mediation process. The mediations include all of the parties involved, as well as family elders or other mutually respected people from either side to act as witnesses.

TABLE 1. MEDIATION PROCESS

Introduction and ground rules	Parties should approach one another with respect; mediation is voluntary. Each side tells its story.
Each side tells its story	The stories often will be long and contentious, but they should be uninterrupted. The paralegal should try to keep hissing and exclamations to a minimum.
Mediator's summary and provision of legal facts	The paralegal provides compendiums of what has been said, identifying the key claims on either side. The paralegal introduces relevant legal facts. Some time is allocated for discussion.
Possible solutions	Each party articulates the settlement it would like to see. The paralegal points out legal limitations where necessary. The paralegal also offers hybrid and alternative solutions that may bridge the interests of the two parties.
Discussing solutions	The paralegal facilitates discussion with an aim towards mutually agreeable settlement.
Reaching agreement	If parties reach an agreement, the paralegal restates the exact terms. Agreements are written up according to a standard template and are signed by both parties as well as the witnesses. A copy is kept on file at the office.

Our use of mediation resonates with the emphasis in customary law on reconciliation and community cohesion rather than punishment.<sup>54</sup> One of the

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54. See, e.g., Justice John Wuol Makec, *Legal Aid and its Problems in Sudan: Proposed Supplementary Mechanisms 5* (paper for Conference on Legal Aid in Criminal Justice in Africa, Lilongwe, Nov. 23, 2004) (unpublished manuscript on file with author) ("One of the main objectives of customary law is the establishment of peace and harmony between the parties and society as a whole through compromise, conciliation, and compensation or restoration of social imbalance created by the commission of wrong or criminal acts.").

traditional roles of chiefs at all levels, in fact, is to help their constituents to peacefully resolve conflicts. Chiefs are not violating the Local Courts Act if the parties come to them voluntarily and they refrain from imposing fines or penalties. But chiefs' courts like the ones Pa Lansana encountered are quite common, and chiefs are often biased by bribes or by the status—bigness, as it were—of the parties. The same is true of formal legal institutions like the police. One police officer in Gbonkolenken Chiefdom complained to a lawyer who came to assess our program that people in the chiefdom were taking their problems to the "human rights" office rather than to the police force. When asked why, the officer candidly stated: because the human rights people don't take money.<sup>55</sup>

We do not wish to supplant either customary or formal dispute mechanisms. To the contrary, much of our work involves helping clients to access and navigate both sets of institutions. But by offering a free and fair alternative for the mediation of conflicts, we may provide healthy competition and achieve some dilution of the authority that is presently concentrated in the community's big persons.

It is worth considering here our use of mediation in light of concerns raised about alternative dispute resolution in other contexts. In the United States, critics such as Owen Fiss and Deborah R. Hensler worry that rising emphasis on alternative dispute resolution mechanisms will detract from the courts' important role in the public articulation of rights.<sup>56</sup> Strict application of these arguments to the Sierra Leonean context would risk repeating the mistake which Galanter and Trubek highlight in *Scholars in Self-Estrangement*: presuming the relevance of an idealized liberal-legalist conception of the role of law in society.<sup>57</sup> Sierra Leonean formal courts simply do not play the rights-articulating role which Fiss and Hensler take them to play in the United States. There is presently no system for court reporting; for example, written judgments are circulated informally among lawyers.<sup>58</sup> According to one of the country's lead scholars in constitutional law, there is only one instance in which the Supreme Court has struck a legislative provision on constitutional grounds.<sup>59</sup> Many controversial cases before the Supreme Court are never heard, or heard but never decided.<sup>60</sup>

And as I have explained, formal courts stand at quite a distance, both literally and figuratively, from the communities in which we work. The realistic choice for the majority of our clients is between mediation in our

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55. Interview with Asha Ramgobin, Director, Human Rights Development Initiative, in Magburaka, Sierra Leone (Mar. 16, 2005).

56. See Owen Fiss, *Against Settlement*, 93 YALE L. J. 1073 (1984); Deborah R. Hensler, *Our Courts, Ourselves: How the Alternative Dispute Resolution Movement Is Reshaping Our Legal System*, 108 PENN. ST. L. REV. 165, 196 (2003).

57. See generally Trubek & Galanter, *supra* note 4.

58. Court reporting did exist in the 1970s, and the Justice Sector Development Program sponsored by the U.K. Department for International Development has plans to reinstate court reporting in the next few years.

59. Interview with Yada Williams, advisor to Fourah Bay College Human Rights Clinic and former professor of constitutional law (May 13, 2004).

60. *Id.* In 2002, for example, Yada Williams and Abdul Tejan Cole filed a constitutional challenge to discriminatory land laws in the Supreme Court. To date the case has not been decided.

offices and customary courts rather than between mediation and formal courts. We have found that the word-of-mouth dissemination of the results of mediation sessions in our offices seems to have a precedent-setting effect in much the same way that dissemination of the oral decisions of customary courts might have.<sup>61</sup> These qualifications aside, we do not believe that mediation is the solution to every problem, and one of the paralegal's duties is to lay out for a client all of her legal options, including use of the formal courts. As I will explain in the next section, formal litigation is a crucial part of our overall strategy.

Fiss, Hensler, and others also worry that alternative dispute resolution mechanisms disadvantage less powerful litigants.<sup>62</sup> This concern is echoed in studies of alternative dispute resolution mechanisms in the "developing world." Marc Galanter and Jayanth K. Krishnan, writing about *Lok Adalats* (state-sponsored "people's courts") in India, for example, and Human Rights Watch, writing about Gacaca courts in Rwanda, find a tendency in the respective mechanisms to bully, and insufficiently protect the rights of, their poor participants.<sup>63</sup> These concerns stem in part from constraints on participants' choice of forum. Hensler describes U.S. judges who cajole parties into settlement;<sup>64</sup> Galanter and Krishnan observe a particularly gruff, paternalistic version of the same tendency among *Lok Adalat* judges;<sup>65</sup> and Gacaca courts were the only forum available under law to some one hundred thousand detainees accused of genocide.<sup>66</sup> Our mediations are both unconnected to the state and voluntary. The admission of the candid police officer in Gbonkolenken Chiefdom suggests that poor people choose to approach our offices to avoid bias and barriers in the existing institutions for dispute resolution. If anything, our mediation process might be criticized for bias in favor of the *less* powerful party, because paralegals will often help that party to take other action if an agreement is not reached.<sup>67</sup>

### c. *Wide Range of Justice Issues*

In addition to employing unconventional tools, we handle an eclectic range of cases, including issues as disparate as domestic violence, economic exploitation, wrongful detention, and government corruption. Perhaps we could gain expertise and effectiveness if we narrowed our scope. But where existing services are so poor and critical needs are so wide-ranging, specialization would seem irresponsible. We have chosen to take our directions from the justice needs of the communities in which we work.

61. This perception is based on experience and conversations with community members; we hope to test it more rigorously in the future.

62. See, e.g., Hensler, *supra* note 56, at 176.

63. See, e.g., HUMAN RIGHTS WATCH, WORLD REPORT 2003, at 63 (2003); Marc Galanter & Jayanth K. Krishnan, "Bread for the Poor": Access to Justice and the Rights of the Needy in India, 55 HASTINGS L.J. 789 (2004).

64. Hensler, *supra* note 56, at 175.

65. Galanter & Krishnan, *supra* note 63, at 816-20.

66. HUMAN RIGHTS WATCH, *supra* note 63, at 63.

67. I plan to develop this theme—the use of mediation, an ostensibly neutral vehicle, as a component of what are ultimately non-neutral justice efforts—in a future article.



We have not set any strict limitations on the kinds of problems with which people may approach us. We are open to considering whatever community members perceive to be justice issues. Paralegals determine their level of involvement, however, based on 1) whether they consider a significant justice issue to be raised, and 2) whether they are capable of taking useful action. Paralegal involvement in a given case can vary from the mere provision of information to extended, multi-forum advocacy. If someone approaches the office regarding a bitter family dispute over land, for example, in which the parties are unwilling to mediate, and the paralegal does not identify any exploitation or abuse of process, the paralegal would likely offer information about legal procedures and perhaps a referral to a private lawyer; the paralegal would not likely take up the issue further in terms of advocacy or negotiation. One of the duties of the community oversight boards is to help evaluate whether the paralegals show sound discretion in the way they distribute their time and energy across cases.

## 2. *The Color of Law*

Many Sierra Leoneans, especially rural Sierra Leoneans, perceive the legal system and the government in a way not unlike the way they perceive the workings of black magic: as things to be feared rather than understood. We hope to demystify these things; by educating people about them, by guiding people through them, and, most importantly, by proving that law and government can be made to serve ordinary citizens.

We may risk inconsistency, however, for we also make strategic use of the awe with which the law is perceived. Though we do not possess statutory authority, we have found that just the color of law—"human rights" identification cards around our staff members' necks, typed letters on letterhead in a society that is mostly illiterate, knowledge of the law, and, importantly, the power to litigate if push comes to shove—causes many Sierra Leoneans to treat our office with respect.

When the Sierra Leone Farmers' Association was delaying sending seed-rice to a particular village in Kakua Chiefdom in June, 2004, paralegal John Macarthy went with village leaders to visit the SLFA official. The official had been holding out for a bribe. Macarthy told us that the official trembled as soon as he saw "human rights" on Macarthy's ID card. Rice was soon delivered.

When a mother of three children complained in Magburaka that the children's father had abandoned his responsibilities, paralegal Michael Luseni wrote to invite the father, "Ahmed D.," to our office. Ahmed D. lives in Lungi. Magburaka is at the center of the country and Lungi is on the western coast, a two-day journey by public transport. Ahmed D. was a vice-principal of a school; he found someone to carry a reply letter apologizing that he could not be present on the suggested day—his principal was out of town and he was left in charge—and promising that he would visit the office one week later. He dutifully reported the following week. Our paralegal conducted a mediation in which father and mother agreed on a specific monthly maintenance payment to be paid by Ahmed D. to our office and collected by

the mother there. Why should this man travel two days to answer our letter? Michael's impression was that Ahmed D. both wanted to take responsibility for a duty he had shirked and feared the consequences of ignoring us.

Our paralegals are laypeople, and more than half have only a secondary school education. For most of them, their work with our program is their first exposure to law. For the designation "paralegal" to have meaning, then, and for our association with the law not to be empty, we believe it paramount that the paralegals receive continuous supervision and training from lawyers. Directors spend more than half of every month between the various offices, reviewing paralegals' handling of cases, working directly with selected clients, and providing training on pertinent areas of the law or the workings of government. On the other hand, formal law and government are only one half of the resources upon which the program draws (more on legal syncretism, *infra*). The paralegals have greater expertise than the directors with regard to the customary law and institutions in their own localities; they also best understand the clients' needs and limitations. Paralegals and lawyers discern the program's synthetic path together; the directors' interactions with the paralegals must be dialogic rather than didactic in either direction.

In addition to training and supervision by lawyers, a second crucial leg on which our association with the law stands is litigation. Our litigation capacity is small; only Simeon Koroma, the Sierra Leonean director, is qualified to practice in Sierra Leonean courts. We focus our litigation efforts on cases where the injustice is most severe and on cases which present an opportunity for legal impact. We have found that litigation is a critical tool in effectively addressing our clients' problems when other methods fail. And because litigation or even the threat of litigation carries significant weight in Sierra Leone—word spreads like wildfire when a lawyer visits the countryside—our capacity to litigate adds strength to our paralegals' work as advocates and mediators. Both private citizens and government officials take our paralegals seriously in part because they know that if push comes to shove, the organization will push back.

To give a more concrete sense of the importance of litigation, I offer below a few examples of cases we have litigated or are presently litigating. These are all cases in which a paralegal alone was unable to obtain redress, either because of the nature of the harm (we do not support anything short of criminal prosecution for rape cases, for example), or because of the unwillingness of the parties involved to respond to paralegal advocacy and/or negotiation (the owner of the truck in the accident described below ignored multiple letters from our paralegal). In both types of cases, litigation allows us to maintain a program whose promotion of rights has teeth. We don't want to say, "Know your rights! And good luck getting them enforced." Instead, we want to say "Know your rights! And those who violate rights should listen to our paralegals when they advocate and negotiate, because if they do not, we will take them to court." Our ability to stand by the second message is crucial for the efficacy of the program. We are in the process of raising funds to increase our litigation capacity. We hope to develop a pool of public interest-

minded, private lawyers whom we can engage on a case-by-case basis for costs and small fees.

Examples of litigation include:

- A local (customary) court clerk confiscated money awarded to a farmer as judgment against another farmer who wrongly cleared the first farmer's plantation. We are pursuing enforcement of the judgment and disciplinary action against the clerk. (Kakua Chiefdom).
- We are suing for health costs on behalf of market women who were injured when a truck in which they were catching a ride negligently drove off the road. (Tikonko Chiefdom).
- We successfully secured the release of a man who was detained for seventy days without being charged. (Makeni).
- We successfully secured the release of a mother of a newborn who was jailed for spurious reasons at the behest of a "big man" in her community who was involved in a feud with her family. (Freetown).
- We have associated with the government in prosecuting the rape of a seventy-five year-old woman by a thirty-five year-old man. (Tikonko Chiefdom).

Contrary to what some Sierra Leoneans may believe, however, litigation is not magic. In addition to being slow and expensive, it is only as good as the law. One of the definitive characteristics of human rights advocacy is to push for change and redress in situations where, in any empirical sense, an enforceable right does not yet exist. Our program is no exception: we also often advocate beyond any capacity to enforce.

Sometimes people call our bluff. Kadiatu T.'s boyfriend, "Ebong A.," was an apprentice to a vendor of used televisions in Lagos who left for Abidjan in search of better business. When war broke out in Ivory Coast he hid himself on a merchant ship headed for Spain. The ship's crew caught him before they reached Freetown and turned him over to the Freetown port authority. Twelve months later Ebong A. was living in the Clinetown police station, not under arrest but with nowhere else to go. The policemen allowed him to sleep there and sometimes shared their rice with him. Somehow, he found his way to our office in September 2004. He wanted to know: could we help him get back home.

Paralegal Jow Williams' research revealed that the port authority has a general procedure for handling stowaways: authorities first register the stowaways with the police. They then place them, if the ship's captain is willing, on the next ship to the port from which they came. Somehow Ebong A. had been forgotten at the police station, and now the port authority officials did not remember who he was. Williams set up a meeting between a police officer and the relevant port authority official, in which the police officer confirmed that Ebong A. was a stowaway from the year before. The port official acknowledged the mistake and agreed to arrange for Ebong A.'s return to Nigeria. Perhaps under the spell of Williams' élan, the port official also

agreed to pay a small sum to Ebong A. for feeding and clothing in partial compensation for the twelve lost months.

Williams wrote up the contents of their oral agreement and sent it to both the port official and the police officer. The port official must have thought twice, because he forwarded Williams' letter to his supervisor, who in turn forwarded the letter to the port authority counsel. We received a letter two weeks later stating that the port did not have any knowledge of or obligation to Ebong A.; that if indeed Ebong A. was a stowaway then he was a criminal; and that the port did sometimes arrange for stowaways to be returned to their point of embarkation, but that that practice was purely at the port's discretion.

Jow approached Simeon and me, asking that we sue the port authority. They failed to follow their own policy, he argued reasonably, and they went back on their word. But a little research confirmed the port's central claim: the port authority had no legal obligation to Ebong A. In this case, there was no legal action with which to back up Jow's advocacy. We explained all this to Ebong A. Though disappointed and homesick, he said he appreciated Jow's efforts and that he now considers Jow a mentor. Ebong A. was later grateful when we were able to assist his girlfriend Kadiatu T. To date, Ebong A. is living in the Clinetown police station near the port. Jow has hopes of finding Ebong A. some work, but nothing has panned out yet.

One of our most vulnerable positions regards maintenance payments for neglected children. If two parents are separated, a parent with custody of children is entitled to support from the other parent under Sierra Leonean law. In part because of the massive social dislocations of the war, and in part because of the evolving culture of male-female relations, single-parent homes—especially where the children are under the care of the mother—are quite common in Sierra Leone. Unfortunately, an outdated law sets the maximum maintenance payment that the courts can enforce at 100 Leones per week (U.S.D. \$0.04).<sup>68</sup>

In the provinces, we have the advantage that parental responsibility is also a requirement under customary law, and customary law has no such monetary limits. Scores of fathers have negotiated maintenance agreements with the mothers of their children in our offices. They do so in the presence of elders from their families, who for their part agree to assist with enforcement. The precise amount of maintenance to be paid is determined by considering both the children's need and the father's earning capacity.

Our paralegals have developed creative ways of making the agreements viable. One farmer in Gbonkolenken Chiefdom, "Yusuf J.," agreed that 15,000 Leones (U.S.D. \$5.66) per month was a reasonable amount for the mother of his children to ask for, but insisted that he would be incapable of keeping up with the payments every month. A farmer's earnings, he explained, are seasonal: after the harvest he could probably pay 30,000 Leones (U.S.D. \$11.32), but after planting 15,000 Leones would be impossible. Gbonkolenken paralegals proposed that Yusuf J. pay a minimum

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68. The Bastardy Laws Increase of Payment Act #2 (1988).

of 5,000 Leones (U.S.D. \$1.89) every month and then ensure that within every six months, on his own schedule, a total of 90,000 Leones (U.S.D. \$33.96) was paid. Both parties and their families were pleased with this proposal, and Yusuf J. has complied with the agreement to date. Our paralegals began to use similar arrangements with other farmers as well.

In Freetown, a master's degree student, "Tommy F.," reported to our office when invited, acknowledged responsibility for the child of the woman who had approached us, participated in mediation, and agreed to a scheme of monthly payments. A month later, however, he refused to comply with the agreement. When the Freetown paralegals paid him a visit, he said, with temerity, "I am not paying anything; go ahead and sue me if you want." Perhaps he had spoken to a lawyer. Magistrates do occasionally depart from the ordinance limits to award more reasonable maintenance agreements, but one cannot count on it. We might also sue for breach of contract. Our mediation agreements contain the following clause: "That both parties, having freely consented to the above conditions and obligations and the Organization serving as guarantor as such, any breach of the said conditions and obligations will be considered absolutely unacceptable AND the aggrieved party with the support of the Organization MAY consider legal action."<sup>69</sup>

If we do sue, it is possible that Tommy F. has the resources to hire a lawyer. Simeon is concerned that a lawyer on the other side might challenge the validity of our mediation process on the grounds that we failed to inform the parties beforehand of the legal limits on court-enforced maintenance agreements, arguably a pertinent legal fact. This is not an unbeatable argument—one might challenge the validity of the ordinance itself, citing magistrate decisions which have departed from it—but Simeon is cautious about doing damage to our young program's reputation before the court and the bar. We also plan to advocate that parliament update the law on child support, but there has been no change yet, and legislative action in Sierra Leone tends to be snail-paced. At this writing we are still researching our course of action in this case.

The color of law gives us power. We have a duty not to abuse it. We aspire to a fine balance between progressive advocacy, pushing on the boundaries of just expectations, and pragmatic enforcement, maintaining the capacity to back our arguments with action.<sup>70</sup>

### 3. *Modified Professionalism*

Our program strives to serve clients and communities with some of the rigor and professionalism of the practice of law. The paralegals follow a standardized system for maintaining case files, for tracking and following up

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69. Timap for Justice, Model Mediation Agreement (2004) (unpublished, on file with Timap for Justice).

70. Dan Kahan argues that law makers need to engage in an analogous balancing act in order to ensure that laws aiming to change norms are not met with backlashes of non-enforcement. See Dan M. Kahan, *Gentle Nudges Versus Hard Shoves: Solving the Sticky Norms Problem*, 67 U. CHI. L. REV. 607 (2000).

cases, and for recording their own efforts. Paralegals are bound to uphold client confidentiality, and we consider our files to be privileged.<sup>71</sup> Directors can trace a paper record in any case, and paralegals and directors frequently go over cases to think critically about the choices made and strategies taken. Our level of organization and professionalism sets our work apart from some of the other human rights groups operating in the country, and our clients appreciate that we take them so seriously.

The word "client" itself we borrow from the lawyer's lexicon. That word reminds us of the professional duty we have to the people we serve. But in fact the word client—and the heuristic of legal service in general—is only partially accurate shorthand. One way in which the term is imperfect is that we engage the people we work with not only as people in need of a service but also as social agents; I will focus on the issue of agency in the next subsection. Another way in which "client" misses the mark is that we do not hold the client's interest as highly as a lawyer would. The adversarialism of the common law system—the theory that a neutral decision-maker is more likely to arrive at a balanced view if each side has a zealous advocate than if all sides attempt a degree of neutrality—rests on the presumption of equality of arms. It makes sense where both sides have reasonably comparable representation.<sup>72</sup> As I have tried to explain, much of justice in Sierra Leone works in exactly the opposite way: victory to the biggest arm. In addition, we are the only provider of paralegal services in the places where we work. In a dispute between two parties within the community, it would be arbitrary of us to favor the party who happens to approach our office first.

Rather than the particular persons who file complaints, then, we conceive of our ultimate duty as being toward the entire community and toward basic principles of justice and democratic equality. This is a tall order, and we rely on our community oversight boards to help us stay on course. Wherever possible, we aim, as customary law aims, for mutually acceptable reconciliation. Hence mediation is one of our most frequently-used tools.

Sometimes our commitment to principles of justice requires us to part from both customary law and the express interests of parties to a dispute. We do not accept, for example, a mediation agreement between husband and wife that would require a husband to beat his wife sparingly, or "only when justified." Despite the fact that wife-beating is acceptable under customary law, we take a hard line on domestic violence. We also refuse to mediate rape cases, though this is the traditional approach to rape. In both these instances we cite formal law, but in fact we would hold these stances regardless of what the formal law stated.

Where, then, does our moral compass come from? We have yet to make it explicit either in content or origins. Its sources are undoubtedly mixed: Christianity and Islam, traditional Sierra Leonean values modified by the

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71. We claim attorney-client privilege for our case files, though this has not yet been tested in court.

72. See, e.g., DEBORAH RHODE, ACCESS TO JUSTICE 3-9 (2004).

claims of the international human rights movement. For now we work from case to case rather than articulating a moral theory.

#### 4. *Agency and Community-Level Action*

Writing about her experience working with undocumented immigrant workers on Long Island, New York, Jennifer Gordon grapples with the tensions between law and organizing:

If rights *talk* can support people as they dream—and act—beyond the limits of current law, it makes sense to talk about rights as a part of an organizing effort. But what about rights *enforcement*, traditionally understood as the plodding process of pursuing a case through the courts or a government agency? Such legal claims tend to be deeply individual, dependent on a lawyer as an intermediary, tightly scripted in terms of how the “client” can behave and what she can demand, and limited in outcome to the law’s definition of justice. Much of this is antithetical to organizing’s belief in self-reliance and collective action. It would seem that offering members legal representation to enforce individual rights would have little positive role to play in organizing.<sup>73</sup>

In Sierra Leone we did not begin with a focus on community organizing, as those in pursuit of justice in other contexts sometimes do. Sierra Leone is, in fact, a heavily organized place. In virtually every chiefdom and every village one finds a women’s group, a youth association, multiple farmers’ associations, the traditional societies of poro and sande (sometimes called “secret societies”), a footballers’ association, a petty traders’ group, a marketwomen’s group, a community development association, and others. Sierra Leone is in organizational surplus rather than shortage.

Also, the war bequeathed to Sierra Leoneans a skepticism of organizations that hold grand social and political ambitions and that have connections to the outside world. The RUF was just such a group: they talked of freedom, of justice for the poor, of social transformation, and they were associated with social movements in other places, like the student protest movement in Freetown in the late 1970s and Qadhafi’s “Green Book” pan-Africanism.<sup>74</sup> The RUF’s way of advancing social transformation was to loot, rape, and kill civilians and to raze their homes and villages. Many Sierra Leoneans have had enough with that kind of thing.

Our initial focus was on the thing that still seems most necessary: to show through concrete examples—not words or dreams—that justice is possible. But we are not satisfied to think of community members as clients with needs who require a service. We also do not wish to create in the institution of the paralegal another layer of privileged and relatively powerful big persons on whom ordinary people depend. We aim for our work to live up

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73. JENNIFER GORDON, *SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANT RIGHTS* 185 (2005) (explaining the way that, despite these concerns, the Workplace Project, which Gordon founded in 1992, is able to use a legal clinic to support its primary aim of worker organizing). *See also* Peter Evans, *Collective Capabilities, Culture, and Amartya Sen’s Development as Freedom*, 37 *STUD. IN COMP. INT’L DEV.* 54, 56 (2002) (arguing that “for the less privileged attaining [Amartya Sen’s conception of] development as freedom requires collective action”).

74. MUAMMAR AL-QADHAFI, *THE GREEN BOOK* (1976).

to the notion of "legal empowerment," to contribute to the social agency of poor Sierra Leoneans.

Empowerment is a compelling but elusive concept, and difficult to measure.<sup>75</sup> Are Pa Lansana, Kadiatu T., and Macie B. somehow more capable as social agents as a result of our interventions?<sup>76</sup> We believe that our paralegals are better suited to contribute to empowerment than, for example, conventional legal aid lawyers, because they are closer to the communities in which they work and because of their use of empowerment-oriented tools like education. We aspire to solve justice problems in *collaboration* with our clients rather than on behalf of them.<sup>77</sup>

From the beginning we have defined the paralegal's role in terms of both assisting individual clients and addressing community-level problems. The latter of these roles is crucial for our attempt to cultivate agency. Some of our efforts at the community level have involved supporting communities in their pursuit of economic and social-structural development. Residents in Kutumhan Section of Bumpeh Chiefdom, for example, came together in early 2005 under the leadership of the section chief to repair roads in the section collectively. The young men doing the bulk of the work later objected to the schedule set by the section chief for two reasons: first, they lacked adequate tools, and second, the road work was preventing them from properly preparing their farms for the rains. Paralegal Joseph Sawyer mediated between the youths and the chief to arrive at a new timetable which would not interfere with farm work. Sawyer also helped the section apply to a local NGO, Network Movement for Justice and Development, for a grant of tools which allowed them to move forward with the road repairs more efficiently.

In other instances paralegals have worked to improve the democracy and effectiveness of existing community organizations. The Gbonkolenken Youths Council is the umbrella organization for youth in Gbonkolenken Chiefdom; the council runs development, social, and athletic activities and represents the voice of the youth to chiefdom elders and authorities. "Youth" is a broad category in Sierra Leone, generally encompassing people under the age of forty. Anthropologists have characterized this society as gerontocratic, and many observers believe that subjugation of youth by elders was among the causes of the civil war.<sup>78</sup> Youth institutions play an important social and political role in the country.

In October 2004, the Gbonkolenken Youth Council was near collapse. Its members had accused its leadership of corruption and incompetence. The general membership body asked paralegal Daniel Sesay to assist in an

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75. See, e.g., CHRISTOPHER GIBSON & MICHAEL WOOLCOCK, EMPOWERMENT AND LOCAL LEVEL CONFLICT MEDIATION IN INDONESIA: A COMPARATIVE ANALYSIS OF CONCEPTS, MEASURES, AND PROJECT EFFICACY (World Bank Policy Research Working Paper No. 3713, 2005) (reporting on attempts to measure the empowerment effects of conflict mediation work in Indonesia).

76. We hope to engage in more systematic research, along similar lines to that of Gibson and Woolcock, *id.*, on the empowerment effects of our own work.

77. The proponents of problem-solving legal services also often embrace a collaborative orientation toward their clients. See, e.g., Lopez, *supra* note 53, at 59, 67-74; Seielstad, *supra* note 53, at 448-52.

78. See INTERNATIONAL CRISIS GROUP, REBUILDING FAILED STATES 13-14 (2004).



investigation and assessment of the Council. Daniel helped to recover three million Leones (U.S.D. \$1132.08) of the Council's property and to undertake an audit of the Council's finances. Daniel organized a public "truth" hearing in which he persuaded various members of the Youth Council to admit their transgressions and to commit to plans for remediation. He prepared a report of his findings and recommendations and presented them to the council's membership. He now has been asked to assist in developing a new constitution and structure for the council.

Community-level work undertaken with the amputees of Bumpeh-Gao Chiefdom intertwined the pursuit of relief from external institutions with the process of internal community development. The RUF practice of cutting off the hands and arms of civilians exemplified the extraordinary brutality of Sierra Leone's civil war. In Bumpeh-Gao Chiefdom, two NGOs, Norwegian Refugee Council and Cause Canada, attempted to provide assistance to amputees after the war ended. The NGOs set out to build a complex of houses for the amputees and their families. They also promised water wells; monthly stipends for double-amputees; some clothing and toiletry items; vocational training in tailoring, fabric dying, and soap making; and start-up equipment and capital to engage in these cottage industries. The homes were built and the training was provided but the other promises didn't materialize. It turned out that the NGOs had sub-contracted to a few local men who had absconded with the money. Both the paramount chief and the Chiefdom Council had approached the NGOs, but the NGOs refused to act themselves and pointed instead to the sub-contractors who were now at large.

The issue was brought to our office some eight months later. With the help of Allison Kent, a legal intern from the United States, our paralegals wrote letters to both NGOs asking for an explanation as to why the items promised were never delivered. These letters were followed up by further meetings and, eventually, Norwegian Refugee Council acknowledged that they had some items which were meant for the Bumpeh amputees, but that they had lost touch with the camp, they were in the process of withdrawing from the country, and they had no way of transporting the goods to Bumpeh. We used our jeep to bring a sewing machine, toiletry supplies, and used clothing, all from Norwegian Refugee Council, to the amputees. Norwegian Refugee Council also gave us the names of the people contracted to build the water wells. Our paralegals tracked these people down and threatened that our organization would take legal action against them; within a month the wells were built in the amputee camp.

Cause Canada refused to respond to us at first, until we raised the possibilities of contacting their headquarter office in Canada and taking legal action within Sierra Leone. After several letters and meetings, Cause Canada found and pressured their sub-contractor, who in turn finally came to Bumpeh and supplied the start-up kits to the amputees in the presence of the paralegals and the paramount chief.

Paralegal Joseph Sawyer and legal intern Allison Kent then helped the amputees to set up a cooperative to begin producing and selling *gara* (a Sierra Leonean style of tie-dyed fabric) using the equipment in the start-up kits.

Allison donated some additional funds to get the cooperative started. Joseph continues to serve as a board member and advisor of the cooperative, which is in the process of selling its first batch of clothes. Cracking this longstanding case of corruption gave the residents of the amputee camp reason to believe that they could influence their own fates, and led to the formation of an institution for that purpose. There has been a palpable shift in the spirit of the amputees in Bumpah-Gao from resignation toward determination.

Community-level actions also allow us to address some of the root causes of the problems that we handle. In June 2004 the principal of a secondary school in Magburaka, the Boys School, locked a student in his office, beat him with electrical cables, and kicked and punched him. Our paralegal Michael Luseni helped the student to obtain medical care and to approach the police. The principal has a record of abuse, but the police were unwilling to prosecute because of the principal's status as a big man in the community. Director Simeon Koroma declared that our organization would pursue private criminal prosecution (permissible in Sierra Leone) against the principal. Just that statement—we had not yet filed papers—created an uproar. The principal led all the teachers in a rally to the courthouse, and people all over town, as well as the radio and print press, discussed the fact that the human rights people might go after the Boys School principal. We ended up abandoning litigation after a series of events which I will not detail here.

The boy who had been beaten was enrolled into a good school in Makeni, the provincial capital in the North, and the principal now allows our paralegals in Magburaka to monitor the school regularly. The Magburaka paralegals are preparing a workshop which will take place in the school on the rights of the child and student-teacher relations. Their hope is that this dialogue, and their regular contact with the school, will help to alleviate the common problem of corporal punishment.

### 5. *Engaging Legal Dualism*

Our approach to the dualist legal structure is pragmatic: we draw on both sets of institutions in any given case, depending largely on which institutional course will best achieve our client's interests and the interests of justice. Our efforts can be divided into two broad categories: first, there are those cases in which our paralegals forge connections between formal law and government on the one hand and rural and/or marginalized communities on the other hand; second, there are other cases which involve internal justice development within the customary setting.

Poor communities often experience formal law and government as strange, absent, and/or abusive. Because of their training and their connection to law, paralegals can help poor and marginal communities to access the formal system and to make it work for them. Bridges across the dualist divide take three different forms. First, we sometimes invoke the formal legal system to check unfairness and exploitation within the customary system. Pa Lansana's story is a case in point; there we drew on a formal legal institution, the customary law officer, to check Pa Roke's abuse of customary legal process and the chieftaincy. It is not that Sierra Leone's formal legal system

embodies in practice the norm we hoped to enforce in this case—due process of law and an independent judiciary. To the contrary, the formal courts systematically fail to abide by either idea. But the formal system's theoretical commitment to these principles has led to enforcement institutions (in this case, the Customary Law Officer within the Law Officers' Department) which we can engage. Although on Mamdani's account of African history these same principles may have once had more traction within customary law, in Kholifa Rowalla in the present day there is very limited recourse within the chieftdom structure if the paramount chief decides to interfere in your case. Another example of this formal-trumps-customary kind of intervention is our actions on domestic violence. Despite the fact that wife-beating is acceptable in principle under customary law, we will assist women to broker agreements and, if the women choose, pursue police prosecution, to combat domestic violence.

A second kind of connection involves assisting community members in engaging the formal system to respond to abuse that emanates from some other organ of the formal system. For example, we are assisting a group of workers from a school in Magburaka, through advocacy with the Education Ministry, to recover two years worth of back wages which were stolen somewhere along the chain of government disbursement. Another example is the case of Kadiatu T., in which we threatened to use litigation—a formal legal tool—in response to abuse by a formal government police officer. Rather than a conflict between formal and customary norms, the problem here is in forcing the formal system to follow its own rules. The relevant dualism in these cases is not so much the division between formal and customary but rather the related, broader division between law and society. Kadiatu T. lives in Freetown, the geographic heart of the formal legal system, but her poverty and her place in society make the formal institutions that would check the formal system's abuses practically unavailable to her.

A third kind of connection does not involve responding to a particular abuse but rather allowing poor people to access or participate in formal structures. Paralegals facilitate this access and/or participation when, for example, they bring the Education Ministry's attention to the need for school renovations in a rural community, or assist a farmers' cooperative to apply for support from the Ministry of Agriculture.

For all our engagement with the formal system, however, we are not legal missionaries who would banish customary darkness with formal legal light. Customary institutions deserve respect both for their link to tradition and for the fact that they, far more than the formal institutions, are accessible and relevant to most Sierra Leoneans. So a second reform orientation involves improving the customary system from within. Our work in this regard departs from the exclusive focus of most law reform efforts on the formal system, and resonates instead with what Madhavi Sunder calls "New Enlightenment"

efforts to advance freedom from within cultures which traditionally have been viewed as outside the modern public sphere.<sup>79</sup>

Examples of these efforts include improving the democratic character of community organizations (as Daniel Sesay did with the Gbonkolenken Youth Association), advocating with chiefs and customary officials for progressive evolution of customary law, and Macie B.'s case, in which paralegals employed a traditional practice (an exorcism) in a creative way to deal with injustice caused by a traditional belief (abandonment due to accusation of witchcraft).

In January 2006, a mother from Magburaka came to our office to complain that her four-year-old daughter had been seized and brought, without her permission, to the *bondu* (female secret society) bush for the purpose of initiation, including genital circumcision. The circumcision, she had learned, had already taken place. The mother wanted her child to be returned safely and wanted to be exempt from the payment which the secret society usually collects from all families whose daughters are initiated. Because of the strong taboo against "outside" meddling in this tradition—non-members of the societies are barred from even mentioning or discussing them—our paralegals determined that formal channels such as the police would be useless in this case.

Instead, they decided to approach the paramount chief. The chief was no opponent of female genital mutilation—he had subsidized, as is common practice, the initiations of hundreds of girls during the present season. But it is a violation of customary law to initiate a pre-adolescent girl or boy without the consent of the child's family. The chief informed the paralegals that the society heads had acted without his authorization and declared a 100,000 Leone (U.S.D. \$37.75) fine against them for this breach.

This allowed the paralegals to approach the society heads themselves. The *bondu* leaders were offended that two men—one of whom was not even a member of the male society, and both of whom were acting in their official capacity as "human rights workers"—would dare to even broach this subject with them. They refused outright the paralegals' suggestion that they sign an agreement assuring the safe return of the young girl. To sign a paper, they felt, would be to acknowledge an unacceptable intrusion. But because of the chief's declaration of non-support, the society leaders cooperated. They promised that the girl would be returned safely, and they agreed not to demand a fee from the girl's mother. Later, they paid the fine to the chief for their breach of customary law.

Here our paralegals invoked a customary institution—the paramount chieftancy—to enforce a customary norm—the ban on initiations of young girls without parental permission—for the purpose of mitigating and deterring the recurrence of an already-committed injustice. I agree with our paralegals that invoking the formal system in this case would have been counter-

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79. See Madhavi Sunder, *Piercing the Veil*, 112 YALE L.J. 1399 (2003). Sunder finds such internal dissent in the work of grassroots women's rights activists in the Muslim world.

productive: a “hard shove,” in Dan Kahan’s terms, rather than a “gentle nudge.”<sup>80</sup>

Though urban and educated girls increasingly opt out of women’s society membership, formal government is unlikely to intervene in the practice of female genital circumcision in Sierra Leone. The wife of President Tejan-Kabbah sponsored the initiations, including circumcision, of 1,500 girls to attract votes in the 2002 elections, and the present Minister of Social Welfare once promised to “sew up the mouths” of those who questioned the practice.<sup>81</sup> Even if some elites changed their minds, the practice, and the cultural wall of secrecy that surrounds it, are too deeply entrenched to be susceptible to outside regulation in the near term.<sup>82</sup>

If broad change does come, it will no doubt bear the influences of the outside world, including modern notions of health and personal autonomy. Our program might be one vector of influence, along with music and television and the cross-migration of people. But the only kind of reform that is plausible in the medium term is one that involves an evolution of norms and, perhaps, a renegotiation of power relations within the communities in which the practice occurs. As a result of the case narrated above and another case in which six girls fled their village to our office to avoid forced circumcision, we are beginning an attempt to engage the issue of female genital circumcision at a community level. We are trying to identify local female *bondu* members who are critical of, or at least ambivalent about, the practice. At this stage, given the taboos against discussion by non-members, it is only through such women that an internal dialogue on the health consequences of circumcision and its implications for girls’ personal freedom could begin.

Our hope is that our piecemeal, grassroots efforts on both sides of the formal/customary and law/society divides will contribute to a reform of Sierra Leone’s dualist legal structure that is synthetic, drawing out the strengths of both systems rather than exalting one to vanquish the other, and that takes its direction from the experiences of ordinary Sierra Leoneans.

#### F. *Model of Social Change Distilled*

These five themes—our creative mix of methods, our use of litigation and the color of law, our modified professionalism, our commitment to agency and community action, and our synthetic approach to legal dualism—

80. Kahan, *supra* note 70, at 608 (arguing that “norms stick when lawmakers try to change them with ‘hard shoves’ but yield when lawmakers apply ‘gentle nudges’”).

81. Female Circumcision Is a Vote Winner, IRINnews.org (U.N. Office for the Coordination of Humanitarian Affairs) (Mar. 17, 2005), available at <http://www.irinnews.org/print.asp?ReportID=46151>.

82. Countries which have passed legislative prohibitions against female genital mutilation have often failed to enforce those laws. See, e.g., Equality Now, Tanzania: Failing to Enforce the Law Against Female Genital Mutilation, Women’s Action 20.1 (June 2001), [http://equalitynow.org/english/actions/action\\_2001\\_en.html](http://equalitynow.org/english/actions/action_2001_en.html) (“Female genital mutilation . . . is prohibited by law in Tanzania. The law is not effectively enforced, however, and the practice of FGM continues openly. In some parts of Tanzania, mass circumcisions are carried out in which thousands of girls are genitally cut at the same time, generally in December.”).

are all aspects of a model of social change. Employing this model, our program consistently achieves improbable results, results which clients and community members often tell us they would have previously considered to be impossible.

In summary, this model consists of:

1. Dogged, sophisticated, sensitive (to culture and community) advocacy. This ongoing advocacy takes place within individual mediations, with powerful people like police officers and chiefs, in community education efforts, etc.
2. The confluence of a) knowledge of and facility with formal law and government, and b) knowledge of the community and facility with more community-oriented, social movement-type tools. Few social agents in Sierra Leone possess both kinds of knowledge and tools.
3. Crucial among formal legal tools is the background threat of, and the sparing but strategic use of, litigation and high-level advocacy. These are often the teeth behind the paralegals' ongoing advocacy on the ground.
4. Paralegals bridge law and society. In poor communities, formal law and government are often experienced as strange, absent, and/or abusive. Paralegals help marginal communities to access the formal system and to make it work for them—by engaging the customary law officer in Pa Lansana's case, for example, or by drawing the education ministry's and local council's attention to the need for school renovations in the community.
5. In addition to building bridges between marginal communities and the formal system, paralegals also engage in internal justice development within the community. Examples of these efforts include helping community organizations to become more democratic and advocating with chiefs and customary officials for progressive evolution of customary law.

#### G. *Sustainability*

The continuation of our work depends on our capacity to raise resources. We presently pay paralegals approximately U.S.D. \$200 per month. Other costs include the directors' salaries and expenses, fuel and maintenance for the project vehicle, rent for office spaces, and transportation allowances for the paralegals. We are in the process of doubling our scope to ten chiefdoms; it will cost us approximately U.S.D. \$180,000 per year to run the program at this scale.

Many argue that the provision of basic legal services to the poor is a governmental obligation. Given the resource circumstances in Sierra Leone, government funding would be a long-term hope at best. Also, an important dimension of our work is to challenge government and hold it accountable. Even if it were available, then, government funding might pose a threat to our program's independence.

Major donors, such as the aid agencies of G8 countries and multilateral institutions like United Nations Development Programme and the World Bank, might be more realistic sources of medium- and long-term support. The communities with whom we work and other concerned Sierra Leoneans may also contribute to program costs. Ideally, and depending of course on the availability of resources, we would like to see paralegal services extended to most or all of the country. Expansion would not necessarily need to take place under our administrative structure but could be undertaken by other affiliated organizations, especially those with regional expertise. We are trying to maintain a sufficiently low per-chiefdom cost to make the argument for wide-scale expansion realistic.

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Our work in Sierra Leone is an experiment in progress, and it has just begun. We have tried to respond to Sierra Leone's unique context with a creative and multi-faceted approach to justice problems. Our experience in the last two years leads us to believe we are on to something, and we hope to find the resources, strength, and humility to continue.

### III. PARALEGALS IN GLOBAL VIEW

Paralegal programs of different stripes exist in Africa, South and East Asia, Latin America, Europe, and North America. Despite the mass and diversity of these existing efforts, paralegalism (to borrow the term used by the National Association of Community Based Paralegals in South Africa) has received scant attention from legal scholars and major institutions involved in human rights and development.<sup>83</sup>

There is far too much paralegal work in the world to comprehensively characterize in this Essay. My aim here is to give a broad sense of the global paralegal landscape and to offer insights about the paralegal approach which emerge from international experience. This discussion is divided into five parts: First, I consider the range of functions paralegals perform. Second, I draw on this variety of efforts as well as on our experiments in Sierra Leone to describe what I believe to be the essence of the paralegal approach. Third, I elaborate the ways in which this approach complements the conventional method of providing justice services, namely, formal legal aid. Fourth, I address three issues involving the way paralegal efforts are structured: training, payment, and relationship to the government. Finally, I argue for the international human rights and development communities to play a greater role in supporting paralegal work.

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83. A Lexis-Nexis search for "paralegal," for example, turns up only references to paralegals as lawyers' assistants in the United States, and no articles on justice services for the poor.

### A. *Diversity of Paralegal Efforts*

#### 1. *Generalist Community-Based Paralegals*

The generalist community-based paralegal model, which is the closest antecedent for our work in Sierra Leone, is only one of many ways of defining the work that paralegals undertake. Especially in Africa, those paralegals labeled “community-based” are associated both with being situated in the communities that they serve and with being generalists. The substantive direction of their work is determined by whatever problems community members bring to them. Paralegals often combine assistance to individual clients with other methods like community education and advocacy. The generalist community-based model is particularly prominent in southern Africa. In South Africa, organizations like Black Sash began establishing “advice centers” during the 1960s, which helped non-white South Africans to navigate and defend themselves against the byzantine codes of the apartheid regime. Since 1994, South African paralegals have focused on areas such as pension benefits, the rights of people living with AIDS, employment issues, gender-based violence, and land restitution.<sup>84</sup>

Black Sash’s professional paralegals staff offices in cities and towns; they also help train volunteer paralegals, who turn to the professionals for advice and assistance where necessary. Black Sash’s work also extends to policy advocacy. Where it identifies negative trends in government behavior or policies, it mobilizes to seek changes, sometimes in combination with lawyers’ NGOs engaged in litigation.

Community-based paralegals in Zimbabwe in recent years have been working in conditions of civil and political repression that bear some similarities to the apartheid era in South Africa. The Legal Resources Foundation, which employs community-based paralegals across the country, reported in 2002 that several advice offices were forced to shut down, others forced to change location, and that “hostile attitudes of so-called war veterans and ZANU-PF activists have created an intimidatory environment for the community wishing to seek the services of the paralegals.”<sup>85</sup> Legal Resources Foundation reported that paralegals’ cases focused on deceased estates, maintenance, property recovery, and debt collection, “with people looking for ways in which to raise money to survive.”<sup>86</sup> Paralegals also handled a significant number of birth registration cases because the Mugabe regime made birth certificates a prerequisite for the identity documents needed to vote.<sup>87</sup>

The Law and Human Rights Center (LHRC), which works with what the Indian government classifies as the “tribal” population in south Gujarat, India,

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84. Interview with Martin Monyela, Director, National Community Based Paralegals Association, in Johannesburg, South Africa (Apr. 21, 2004).

85. LEGAL RESOURCES FOUNDATION, 2002 ANNUAL REPORT 5 (2002), available at [http://www.lrf.co.zw/Documents/ann\\_rep\\_02.pdf](http://www.lrf.co.zw/Documents/ann_rep_02.pdf).

86. *Id.*

87. *Id.*



is another example of a community-based paralegal effort. LHRC paralegals combine legal advice (including connecting clients with LHRC lawyers in severe cases), mediation, and community organizing. LHRC places strong emphasis on the last of these: LHRC's team of some 300 paralegals helped to establish "*sangathan*," or "people's organizations," in more than 300 villages in Surat District between 1998 and 2001. The *sangathans* define their priorities collectively and take on community-level issues such as opposing harmful industrialization or organizing community savings and loan programs.<sup>88</sup> There are myriad other examples of generalist community-based paralegal programs, from Citizens Advice Bureaus in the United Kingdom to the Human Rights Defenders Network in Chiapas, Mexico.

## 2. *Specialization*

Many other paralegal programs specialize their efforts in one way or another. Paralegals from the Filipino farmers' organization Kasama are just as community-based as their counterparts in southern Africa or India, but they focus their work on two specific issues: "conversion of the members' plots of land from share tenancy to leasehold status; and assisting members in getting their legal share of crop proceeds."<sup>89</sup> Both these tasks require relatively sophisticated legal knowledge and paralegal skills, including representing farmer applicants before Department of Agrarian Reform tribunals hearing their land reform applications. (In the Philippines, paralegals are legally entitled to represent fellow citizens in administrative tribunals and processes pertaining to labor and agrarian reform.) Stephen Golub, one of the few scholars who have thought analytically about the use of paralegals as a strategy for advancing justice, finds that the Kasama paralegals' specialization in such cases allows them to maximize efficacy in the two areas of most importance to organization members.<sup>90</sup>

Other programs specialize in a particular methodology. In Bangladesh, for example, the Madaripur Legal Aid Association focuses on alternative dispute resolution. Beginning in the late 1970s, MLAA invoked a traditional Bengali approach to conflict, called "*shalish*," in which village-level mediation is conducted by voluntary committees, and adjusted that tradition according to principles of fairness, equality, and certain aspects of national law. MLAA ensured that the mediation committees included women, for example. MLAA also trained "mediation workers"—the equivalent of paralegals—who are responsible for receiving applications for mediation, coordinating mediation sessions, and following up and monitoring settlements.<sup>91</sup>

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88. Pritha Sen, *People's Organizations: A New Beginning for India's Tribals*, CHANGEMAKERS, Nov. 2001, available at <http://changemakers.net/journal/01november/sen.cfm>.

89. Stephen Golub & Kim McQuay, *Legal Empowerment: Advancing Good Governance and Poverty Reduction*, in LAW AND POLICY REFORM AT THE ASIAN DEVELOPMENT BANK § 255 (Asian Development Bank 2001), available at [http://www.adb.org/Documents/Others/Law\\_ADB/lpr\\_2001.pdf](http://www.adb.org/Documents/Others/Law_ADB/lpr_2001.pdf).

90. *Id.*

91. PENAL REFORM INT'L, ALTERNATIVE DISPUTE RESOLUTION: COMMUNITY-BASED MEDIATION AS AN AUXILIARY TO FORMAL JUSTICE IN BANGLADESH 6-7 (2003).

The mediation workers are connected to legal aid lawyers. They are trained to refer egregious, criminal cases for formal legal action rather than to promote mediation in such instances.<sup>92</sup> This defined, circumscribed model may be easier to bring to scale than the more flexible and locality-specific community-based paralegal approach. By 2003, MLAA was working with 450 mediation committees, and the organization estimated that its committees had resolved 50,000 disputes over a 25-year period.<sup>93</sup> Another reason why paralegal specialization may be appropriate in Bangladesh is the country's exceptionally robust civil society.<sup>94</sup> When other organizations are likely to provide complementary services in the same localities, it makes sense to focus on a particular, well-defined need.

The Paralegal Advisory Service (PAS) in Malawi specializes in a single issue, the rights of prisoners and detainees, as well as a specific set of methods. Paralegals in the PAS are recognized by the Malawi justice system, and their duties are twofold. First, they conduct regular clinics in the prisons, targeted especially for pre-trial detainees. These clinics aim to explain the process of criminal prosecution, from arrest and detention through summary trial to committal proceedings and trial in high court. The clinics include participatory dramatizations of bail applications, cross examinations, and pleas for mitigation in sentencing in order to familiarize prisoners with those processes.<sup>95</sup>

Second, the paralegals provide basic assistance to individual detainees and prisoners. For pre-trial detainees, the paralegals largely handle claims for dismissal and bail. The judiciary, police, and PAS have agreed on a standard form for bail applications which the paralegals are authorized to assist detainees in filling out. Paralegals also help detainees to track down relatives in the community who can serve as sureties. Paralegals meet directly with police prosecutors to review cases, and often succeed in facilitating detainees' release on bail or, in some instances, dismissal for want of prosecution. For convicted prisoners, paralegals assist with appeals of sentences, again using a standard form agreed upon with the judiciary. Between May 2000 and March 2003, PAS estimated that paralegals had facilitated the release of over 1,000 prisoners (including those released on bail).<sup>96</sup>

## B. *Essence of the Paralegal Approach*

What do these disparate kinds of work have in common? There is no clear definition of the paralegal approach in the legal literature. Drawing on

92. Stephen Golub, *Nonlawyers as Legal Resources for Their Communities*, in MANY ROADS TO JUSTICE 297, 306 (Mary McClymont & Stephen Golub eds., 2000), available at [http://www.fordfound.org/publications/recent\\_articles/manyroads.cfm](http://www.fordfound.org/publications/recent_articles/manyroads.cfm).

93. PENAL REFORM INT'L, *supra* note 91, at 6-7.

94. Bangladesh is a hotbed of NGO activity, though the quality of that activity varies greatly. It is said that if one adds the number of villages Grameen Bank is working in with the number of villages Bangladesh Rural Advancement Committee (BRAC) is working in, the number is greater than the total number of villages in Bangladesh.

95. PARALEGAL ADVISORY SERVICE, *ENERGISING THE CRIMINAL JUSTICE SYSTEM IN MALAWI* 8 (2002).

96. *Id.* at 11.

both international experience and our experiments in Sierra Leone, I would argue for defining the essence of the paralegal approach in the following way:

1. Paralegals are laypeople working directly with the poor or otherwise disadvantaged to address issues of justice and human rights.<sup>97</sup> Paralegals have two kinds of training: 1) substantive—in formal law and the functioning of government; and 2) skills—in mediation, investigation, negotiation, advocacy, organizing, community education. Paralegal methods consist of a mixture of these skills. The precise blend of methods varies according to the needs of a given case and the focus of a given program.
2. Paralegals strive to achieve *concrete solutions to people's justice problems*, like retrieving arbitrarily denied pension benefits for a mineworker in South Africa, or obtaining a release on bail for a criminal defendant in Malawi. Community education is always a critical component of a paralegal's work, but if it stands alone it can come across as empty talk.<sup>98</sup>
3. Paralegals make use of the law. In some cases, the law is at the center of the paralegal's mission, as with paralegals from farmer organizations in the Philippines, who aim to bridge the gap between law and enforcement, to turn the words and vision of agrarian reform legislation into lived facts for Filipino farmers. In other cases, as with mediation workers in Bangladesh, paralegals fill the holes that inadequate formal legal structures leave. Even there, formal law is an important presence at the margins: mediation workers must know when the harm involved is so egregious that it is necessary to pull the trigger of formal prosecution.
4. Paralegals are connected to lawyers and litigation. All of the paralegals mentioned here interact with lawyers in some way. Many paralegals in South Africa work without direct supervision by lawyers, but most South African paralegals have some connection to organizations engaged in public interest litigation. In fact, some of South Africa's most important impact litigation cases have originated from paralegal advice offices.<sup>99</sup> Part of a paralegal's job is to discern when legal action might be effective and appropriate.

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97. Depending on how broadly one defines human rights, these are largely overlapping categories. Some justice issues, like land reform in the Philippines or democratization of a youth association in Sierra Leone, may not involve a well-defined right under international human rights law.

98. See, e.g., ANDREA WOODHOUSE, WORLD BANK, VILLAGE JUSTICE IN INDONESIA: CASE STUDIES ON ACCESS TO JUSTICE, VILLAGE DEMOCRACY AND GOVERNANCE 68 (2004) ("The existing literature suggests that interventions focusing on education and training are likely to fail unless linked to cases that appeal to villagers' self-interest . . . . Legal empowerment efforts should therefore target concrete cases and use them as opportunities for integrated activities: providing legal assistance, mobilizing socially and fostering links to civil society institutions to monitor the legal system.").

99. Interview with Rudolph Jansen, Director, Lawyers for Human Rights, in Pretoria, South Africa (Apr. 21, 2004).

### C. *An Important Complement to Formal Legal Aid*

Paralegals are much less costly than lawyers. It is possible to train a large and widely-spread cadre of paralegals, while in some places the supply of lawyers is restrictively small and concentrated. We would underestimate the power of paralegalism, however, if we were to conceive of paralegals only as good substitutes in the event that lawyers are not available.

In addition to the advantages of cost effectiveness and availability, the paralegal approach complements formal legal aid in several important ways.

1. Paralegals are often closer to the communities they serve. They tend to be 'of' those communities while lawyers are frequently outsiders and elites.
2. Paralegals have a wider and more flexible set of tools, including community education, mediation, and community organizing. What group of lawyers has established hundreds of people's institutions as the LHRC paralegals have in Gujarat? Lawyers would not know what to do about many of the problems which paralegals address. Unlike many lawyer-centered legal aid programs, paralegals need not assume that formalistic legal solutions are the correct approach to any given problem. They can draw on their broader set of tools and reserve the use of litigation for when it makes strategic sense.
3. Paralegals are more capable than lawyers at straddling dualist legal systems. This area is relatively unexplored amongst paralegal efforts worldwide but our program in Sierra Leone engages both formal and customary institutions in a way that formal legal aid programs—which by their methodologies are focused on the formal legal system—could not.
4. Paralegals need not limit themselves to an adversarial approach. Voluntary mediation is one of paralegals' most powerful tools. Paralegals' focus on harmonious reconciliation rather than adversarialism resonates with some traditional approaches to justice.
5. Paralegals are generally able to contribute to 'empowerment' more than lawyers. This does not necessarily take place in every case, but results from paralegals' proximity to the communities with whom they work and paralegals' use of empowerment-oriented tools like community organizing and community education.

### D. *Structural Issues in Paralegal Programming*

If there is indeed a coherent approach that unifies the diversity of paralegal efforts, it makes sense to consider in concert questions of how paralegal programs should be structured. I would like to address three such issues: training, remuneration, and relationship to the government.

### 1. *Training*

In South Africa, paralegal training varies significantly, but some training programs there reflect the push by some paralegals for professionalization.<sup>100</sup> Organizations like Lawyers for Human Rights and the Community Law and Rural Development Center (CLRDC) provide formal courses; CLRDC's twelve-month course takes place at the University of Natal and leads to a diploma.<sup>101</sup> The Legal Resources Foundation in Zimbabwe (LRF-Zimbabwe) conducts a five-stage training program that takes place at intervals over the course of three to four years. LRF-Zimbabwe also helped establish a paralegal certification process, for which candidate paralegals must take five written exams in required subjects and a practical exam. These exams are moderated by the Judicial College and the certificates are approved by the Council for Legal Education and the Law Society.<sup>102</sup> Despite opposition from Zimbabwe's ruling party, then, Zimbabwean paralegals have some recognition from within the legal system and the private bar.

All paralegal training need not be so formalized to be effective. Even more important than courses at the outset, perhaps, is long-term supervision from and interaction with social justice lawyers and other trainers. Golub finds this to be one of the keys to the success of paralegals trained by alternative law groups in the Philippines.<sup>103</sup>

Not all of those claiming to do paralegal work are committed to this longer-term approach. Many organizations in recent years have conducted one-time trainings for community members with the intention that trainees will serve as paralegals. In Sierra Leone, Global Rights recruited two representatives from every chiefdom in Koinadugu and Kailahun districts, and held a four-day "paralegal" training for the representatives in each district. Trainees were provided a small allowance (10,000 Leones (U.S.D. \$3.80) per month) for transportation for the next six months, and were asked to write reports of their paralegal activities. The trainees did not receive further supervision after the initial training. In another version of one-off training, organizations sometimes provide legal education sessions for existing NGO workers and activists. Lawyers for Human Rights and Legal Aid in Pakistan, for example, conducts five-day "paralegal trainings" of this kind.<sup>104</sup> Efforts such as these by Global Rights in Sierra Leone and Lawyers for Human Rights and Legal Aid in Pakistan may be useful ways of disseminating information, but the trainees are perhaps not best thought of as paralegals. If people who have received a few days' worth of training attempt to give advice on justice issues under no supervision, there is the possibility of doing more harm than good.

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100. Interview with Martin Monyela, Director, National Community-Based Paralegals Association, in Johannesburg, South Africa (Apr. 21, 2004).

101. David J. McQuoid-Mason, *The Delivery of Civil Legal Aid Services in South Africa*, 24 *FORDHAM INT'L L.J.* 111, 133-34 (2000).

102. See LEGAL RESOURCES FOUNDATION, *supra* note 85, at 7.

103. Golub, *supra* note 92, at 304.

104. Lawyers for Human Rights and Legal Aid, *Areas of Work: Paralegal Training*, <http://www.lhrla.sdnpk.org/paralegal.html> (last visited Mar. 07, 2006).

To avoid this danger, it may be useful for paralegal programs or paralegal associations in each country to develop standards for determining who is qualified to work as a paralegal. Such standards could follow the professionalist models in South Africa and Zimbabwe, which emphasize courses, exams, and certification. There are other possibilities as well, such as requiring a minimum number of hours spent under the supervision of lawyers per month, or asking paralegal programs to go through a certification process which evaluates whether each program as a whole is capable of ensuring the competence of its paralegal staff.

## 2. *Payment*

Remuneration for paralegals varies considerably. Some receive (usually relatively low) salaries like our paralegals in Sierra Leone. Others are volunteers. Still others receive compensation for basic expenses, such as transportation costs. In southern Africa, where paralegal movements are pushing towards professionalization, most paralegals are paid, though the salaries remain low.<sup>105</sup> I would venture that most paralegal programs which are serious about providing a sophisticated service pay their staff. But effective voluntary paralegal programs do exist.

Sentrong Alternatibong Lingap Panlegal (Saligan), a Filipino legal services organization focused on agrarian land reform, trained a selected group of members from a twelve hundred household-member farmers' association. Of several dozen initial trainees, fifteen went on to carry out robust paralegal work on a voluntary basis, assisting farmers to prepare and file applications for land reform, representing farmers at agency hearings, and assisting Saligan attorneys to defend against obstructionist lawsuits. Golub identifies three key reasons for the success of the Saligan-trained paralegals: first, their training was well-tailored to the specific tasks they were to engage in; second, they received regular supervision and guidance from Saligan lawyers; and third, perhaps most important for their efficacy in the absence of remuneration, the paralegals belonged to a strong community organization.<sup>106</sup>

## 3. *Relationship to the Government*

In most places, paralegals work without any form of recognition from the state. In South Africa, whose paralegal movement has a particularly long history, a proposed Legal Council Bill would recognize paralegals as legitimate service providers.<sup>107</sup> South African paralegals are largely funded by independent donors, but the national legal aid board has incorporated some paralegals into its "justice centers." The justice centers primarily focus on criminal legal defense (which is a mandatory constitutional obligation) but

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105. McQuoid-Mason, *supra* note 101, at 133.

106. Golub, *supra* note 92, at 304.

107. One draft of the bill would also allow paralegals to collect fees and to represent clients in low-level administrative courts. These two issues are among the controversies that have slowed the bill's passage.

provide some civil assistance as well. The legal aid board also sponsors some partnership arrangements in which university law clinics provide litigation support to clusters of paralegal offices working on a particular issue.<sup>108</sup> The South African Legal Aid Board's support for not only lawyers but also paralegals and university-based clinics is unusual.

As mentioned above, paralegals in Zimbabwe enjoy recognition from the legal profession but at the same time face severe opposition from the ruling party. Both Nigeria and Mongolia, in part as a result of advocacy by the Justice Initiative, are close to granting statutory recognition of paralegals, although neither country has a pre-existing vibrant paralegal movement within its borders.

The Malawi Paralegal Advice Service (PAS) may be the strongest example of paralegals working in cooperation with government. PAS paralegals are authorized to work within the prisons, to fill out bail and sentence appeal applications, and to meet with police prosecutors for the purpose of negotiating cases. Although these paralegals are presently funded by independent donors (among others, PAS is supported by the Department for International Development (DFID) Security, Safety, and Access to Justice fund in Malawi), the Malawi government might eventually fund PAS paralegals because the paralegals make the government's own system work more efficiently. At the same time that they improve Malawi's treatment of human rights, PAS paralegals save the government money by eliminating the cost of housing and feeding of wrongfully detained prisoners. The Malawi program is an outstanding example worth promoting in other countries. Indeed, PAS and Prison Reform International have facilitated the development of similar pilot programs in Benin, Kenya, Uganda, and Tanzania.<sup>109</sup> Something that both advances human rights and saves the government money makes for a great sell.

But in exchange for greater recognition and sustainability, a close integration with government like the kind undertaken in Malawi may cost in independence. PAS paralegals cannot, for example, comment publicly about the conditions in the prisons where they work; this is one of the conditions on which they are granted access. The PAS cooperation agreements do not bar paralegals from approaching prison authorities regarding prison conditions, but the paralegals may tend to forego the opportunity. Two PAS paralegals I met explained that, though they often witnessed terrible prison conditions, they are reluctant to raise these issues because they need to maintain good working relationships with the authorities in order to carry out their jobs effectively.<sup>110</sup>

Seeking governmental integration or government funding should not be the goal, then, in every context. Paralegals in many places play a critical role

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108. David McQuoid-Mason, *South African Models of Legal Aid Delivery in Non-Criminal Cases* (Open Society Institute, 2nd European Forum on Access to Justice, Feb. 2005), available at [http://www.justiceinitiative.org/db/resource2?res\\_id=102841](http://www.justiceinitiative.org/db/resource2?res_id=102841).

109. NEWSLETTER (Paralegal Advisory Service, Malawi), Sept. 2005, at 1, 6-9.

110. Interview with two PAS paralegals (who asked to remain unnamed), in Lilongwe, Malawi (Nov. 23, 2005).

in assisting ordinary people to challenge and contest repression and injustice dealt out by the state. This was the situation when paralegals first gained importance in South Africa, and this is the case in Zimbabwe today. The fact that Mugabe's thugs are shutting down paralegal offices is all the more reason that such work deserves independent funding.

Today's South Africa offers the beginnings of a middle ground between integration and independence: the South African legal aid board is funded by the government but structurally autonomous from it.<sup>111</sup> Paralegals receiving funding from the legal aid board are not hampered from efforts that would challenge the government. The same might be said of the United Kingdom, where the legal services commission gives £24 million annually to citizens advice bureaus.<sup>112</sup> As with South Africa, citizens advice bureaus which receive monies from the U.K. legal services commission are not seen to suffer any loss in independence.

But such middle ground might only be available in countries where democracy is strong enough to welcome its critics, and where there is some acceptance within government of the possibility of change from below.<sup>113</sup> In places where these conditions do not prevail, independent paralegal programs can be a powerful force for democratization.

#### E. *Paralegals and the International Human Rights and Development Communities*

Paralegal efforts need global support at two levels: at the level of resources and at the level of ideas.

Donor support for paralegal programs is scattered. DFID has supported some paralegal work through its Security, Safety, and Access to Justice programming; the World Bank has supported paralegal work in certain instances, including its "Justice for the Poor" program in Indonesia; and the Ford Foundation has supported paralegal work in several places, including the Philippines, Bangladesh, and India. Paralegal work does receive support from other international donors, but for the most part on an ad hoc, country-specific basis, often under "governance" or "social development" programs. No major international institution that I am aware of has a policy or program dedicated to supporting paralegal services.

111. See McQuoid-Mason, *supra* note 101, at 117.

112. CITIZENS ADVICE, THE CHARITY FOR YOUR COMMUNITY: CITIZENS ADVICE ANNUAL REPORT (2004).

113. The history of civil legal aid in the United States is a troubling case in point. Civil legal services received strong support under Lyndon Johnson's War on Poverty and grew steadily through the 1970s. These legal services programs succeeded in achieving myriad significant reforms of state policy. Legal aid lawyers translated the experiences of their clients into reform efforts by bringing impact cases, including class actions, and by lobbying legislatures. Ronald Reagan first attacked legal services as governor of California and continued to do so as president. Republicans were aghast that federal money was going toward changing government policies according to the interests of poor people. Legislation passed in 1996, during Newt Gingrich's "Republican Revolution," gutted what was left of legal services funding and placed crippling restrictions on legal aid lawyers: no class actions, no lobbying legislatures, no representing prisoners or illegal aliens, etc. See William P. Quigley, *The Demise of Law Reform and the Triumph of Legal Aid: Congress and the Legal Services Corporation from the 1960's to the 1990's*, 17 ST. LOUIS U. PUB. L. REV. 241, 260-61 (1998).



Paralegal programs deserve to be promoted more systematically. When there is genius in paralegal programs, however, it is almost always in the way they adapt themselves to their unique contexts and work dialectically with national and local social movements. If the World Bank chose to fly the flag of paralegalism and began to undertake paralegal projects in many places, one could imagine the possibilities for such genius being narrowed. Golub suggests that international donors could expand support without crushing local autonomy by operating like foundations rather than implementers, supporting the paralegal work that emerges from the ground.<sup>114</sup> Golub further suggests that the exception to this rule might be situations in which civil society is so damaged that sparks from outside are necessary. This was the rationale behind the Justice Initiative's decision to initiate a paralegal effort in Sierra Leone.

Another useful role for international organizations would be to help paralegal programs to learn from one another. For the most part, paralegal efforts seem to have developed independently, like finch species in the Galapagos. International donors could usefully facilitate exchanges and experience sharing between analogous work in different contexts.<sup>115</sup> One issue around which cross-country dialogue would be useful is the setting of appropriate standards for how and whether one should qualify to work as a paralegal.<sup>116</sup> Eventually one might envision the development of global standards, though the challenge will be respecting the differences in socio-legal context and in the nature of paralegal work across countries.

I see two primary needs at the level of ideas. First, there is a need to better evaluate and more fully document the nature and impact of paralegal work. Sound evidence and a richer literature will inform future efforts and may inspire greater financial support. Relatedly, there is a need to make the argument for the importance of paralegal activities regarding goals about which we have global consensus: human rights and democracy. After decades of World Bank-imposed user fees, the world now seems to agree, at least in principle, that health care and education are fundamental obligations which societies owe their citizens. Are services for people's justice-related problems not also crucial to the health of a democratic society in something of the same way? If so, then paralegal programs are one of the most powerful and effective ways of providing such services. Repressive governments may not accept these arguments, but donors and civil society organizations like political parties, trade unions, and NGOs might, and if they did it would be possible to generate more support for independent paralegal services, especially in places where democracy and justice are weakest.

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114. Telephone Interview with Stephen Golub, Lecturer, Boalt School of Law, in Berkeley, Cal. (March 9, 2005).

115. One organization already dedicated to such experience-sharing is Citizens Advice International. Launched in March 2004, it aims to connect "citizens advice" programs across countries and to promote the citizens' advice model at the international level. It has seven members, all of which are European countries except New Zealand.

116. See discussion *supra* Part III.D.1.

## IV. CONCLUSION

This Essay has attempted to demonstrate the strength of the paralegal approach both through a close examination of a young paralegal program in Sierra Leone and through an assessment of the range and character of paralegal programs existing in the world. Our paralegals in Sierra Leone have worked with thousands of poor Sierra Leoneans to achieve concrete, meaningful solutions to justice problems at low cost and under some of the most severe structural circumstances in the world. Their successes echo those of their counterparts in contexts as wide-ranging as urban England and rural Bangladesh. The paralegal is a potent force for justice, yet the global human rights and development communities have paid her relatively little attention.

At the first International Conference on Primary Health Care in what is now Kazakhstan in 1978, some 134 countries committed to the Declaration of Alma-Ata and the aim of providing primary health care to all people. The vision of primary health care endorsed at Alma-Ata included an important role for primary health workers, who would be connected to the formal health system and who would use a diverse set of tools, including education, immunizations, promotion of nutrition, and family planning, to deliver the first line of health care.<sup>117</sup> The goals of Alma-Ata remain grossly unfulfilled, but the spirit of Alma-Ata continues to animate the global public health movement.

If the ideals of human rights are to be made real for all people, there is a similar need for universal access to basic justice services. We have in the institution of the paralegal a powerful method for providing such services, one that combines knowledge of the law with the creative, flexible tools of social movements. Paralegals relate to lawyers and the formal legal system not unlike the way primary health workers relate to doctors and the formal medical system: a dynamic force at the frontline, with a wider set of tools and aims; a force which, when necessary, facilitates communication between the people and the experts. If paralegal programs are well adapted to the contexts in which they work, they have the potential to synthesize modern and traditional approaches to justice and to bridge the often gaping chasm between law and society. What we need now is a global movement to extend this institution's reach, to provide primary justice services in every village and every town.

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117. See Declaration of Alma-Ata, Int'l Convention on Primary Health Care, Alma-Ata, USSR, art. 7 §§ 3, 7 (Sept. 6-12, 1978), available at [http://www.who.int/hpr/NPH/docs/declaration\\_almaata.pdf](http://www.who.int/hpr/NPH/docs/declaration_almaata.pdf).